Commentary

Volume Fifty-four, Number Five, November 1972

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Letters on "McGovern, Nixon & the Jews"

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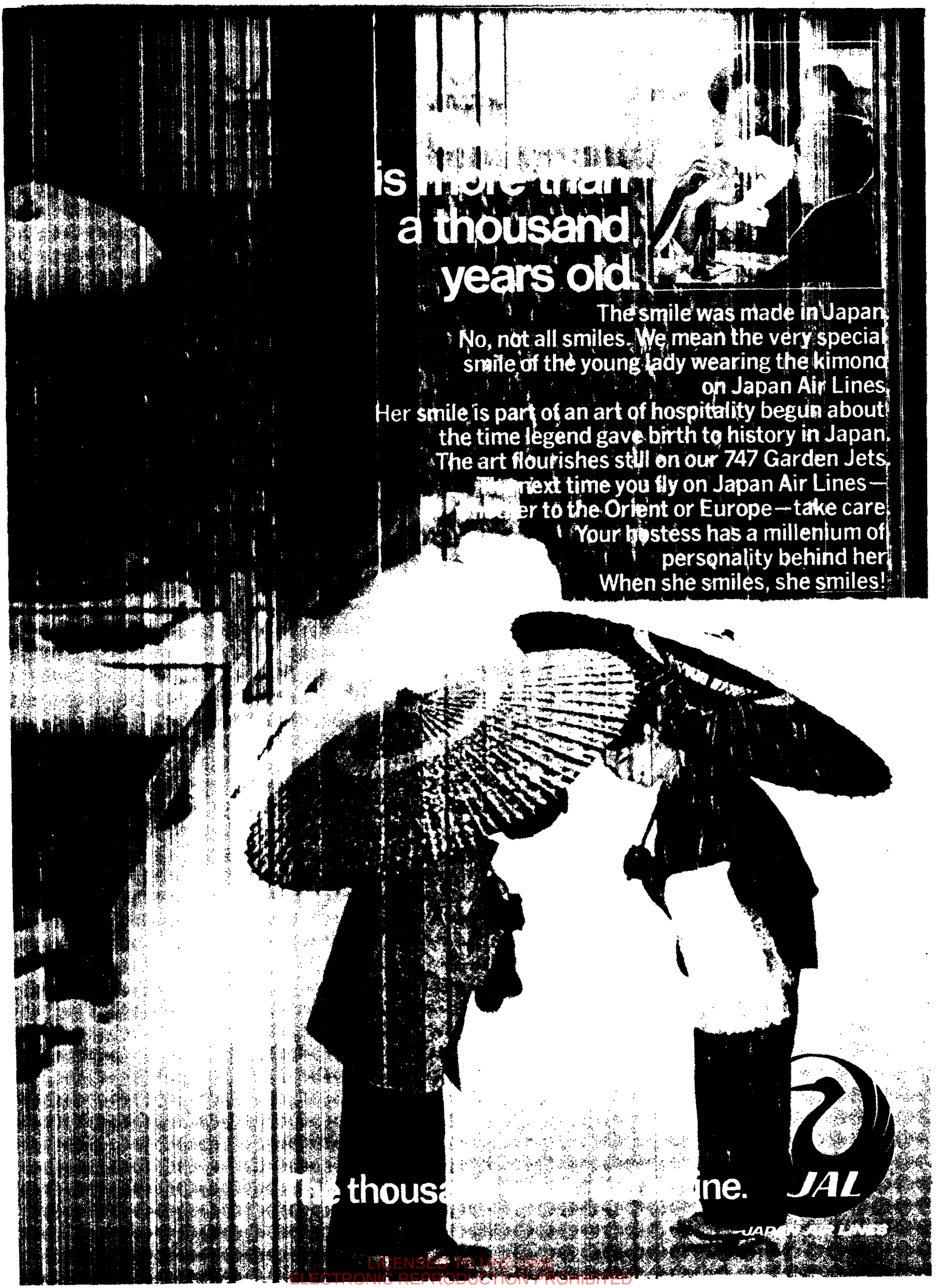
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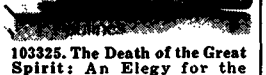

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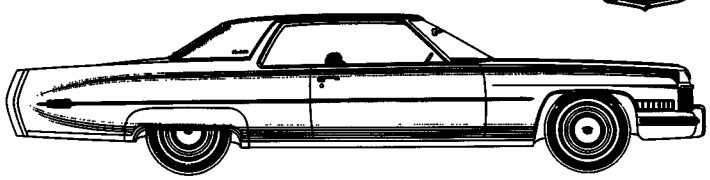

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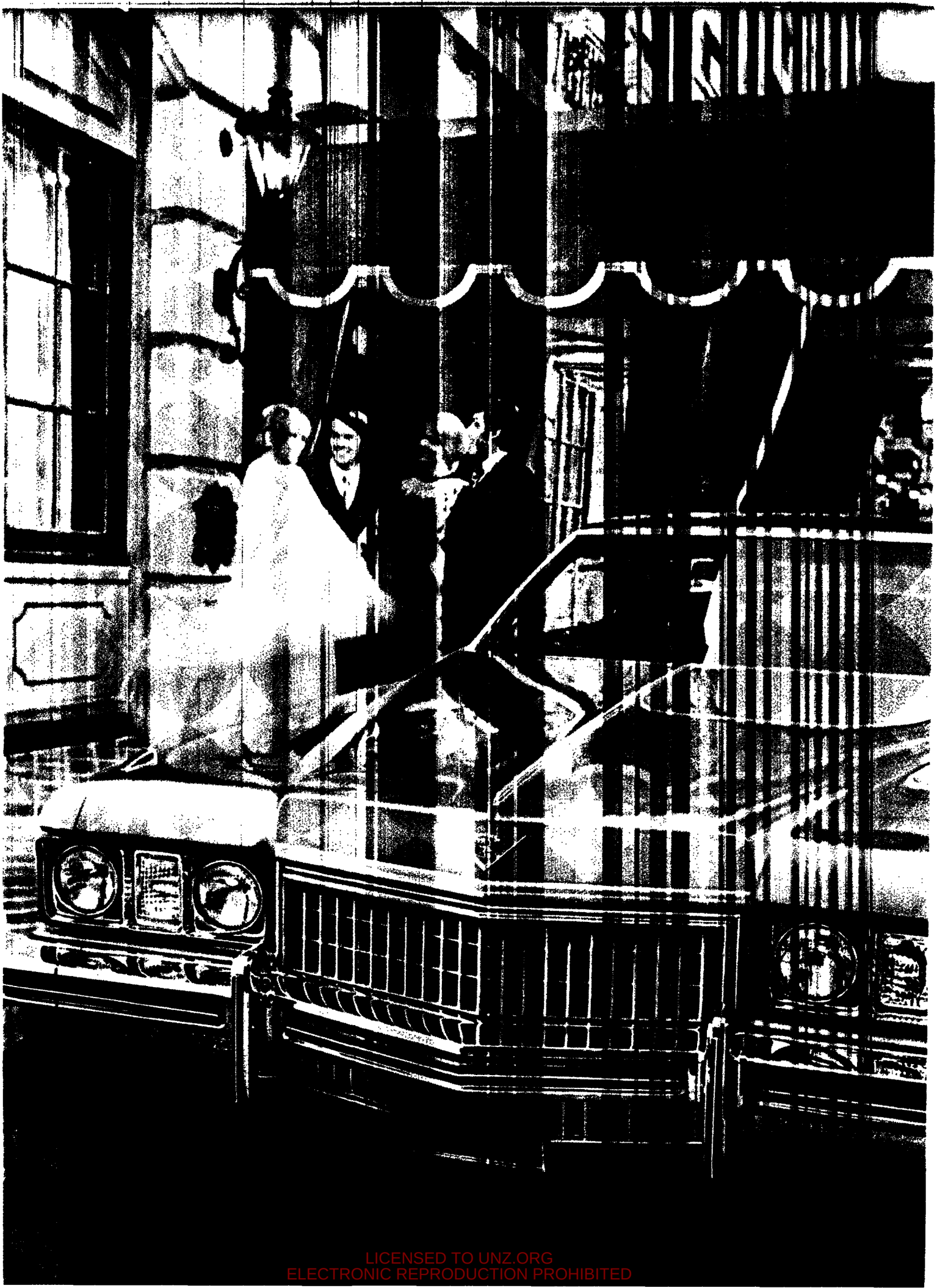

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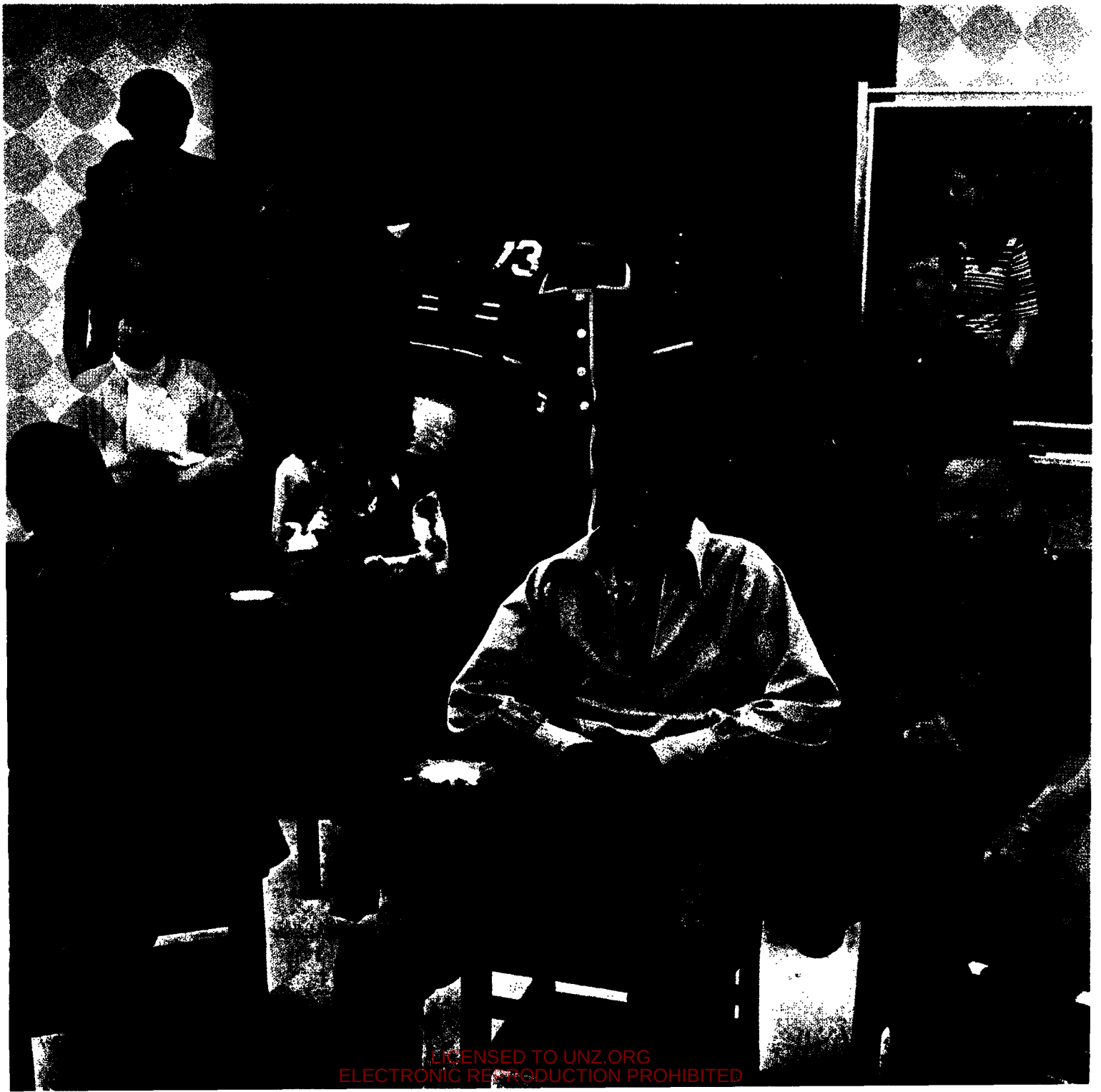

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Living with Free Speech

Norman Podhoretz

WHENEVER I am forced—as I have been this month by Alexander M. Bickel (p. 60)—to think seriously about freedom of speech and the problems it poses, I instantly find myself getting depressed. I tend to take an absolutistic position on freedom of speech, roughly on the ground that restricting it seems on the whole to entail more odious consequences than letting it run entirely wild. Yet I know that the absolutist position is very hard to uphold against the arguments Mr. Bickel recites. And not only is the absolutist position highly vulnerable on the theoretical plane; it is increasingly hard to defend wholeheartedly in the face of certain of its concrete results, the most vivid of which is the spread of hard-core pornography. As it happens, I myself am not as troubled by this particular phenomenon as many libertarians are, but I do have my own favorite horrible examples. The main one is the truly astonishing privilege enjoyed since the *Sullivan* case by the press and television to libel with impunity, to lie with impunity, and with equal impunity to invade the privacy of anyone whose privacy they choose to invade.

Being a writer and a magazine editor, I share in that privilege and perhaps I should be grateful for it. Nevertheless, I cannot help wondering why the media should be entitled to unchecked power when no other institution, whether public or private, is deemed by any respectable body of opinion to be so entitled. Indeed, the very people who protest most loudly against any attempt by the government to interfere with the freedom of newspapers or television networks to say or do whatever it may please—or profit!—them to do are also the ones most loudly demanding that the government should interfere more and more with the freedom of other private corporations to do whatever it may please or profit *them* to do.

I VERY much doubt that this contradiction can be resolved satisfactorily in theory. But of course an American need not resolve it in theory; he need only cite the First Amendment—"Congress shall make no law . . . abridging the freedom of speech, or of the press"—and he need only point out that no similar prohibition so unambiguously protects the freedom of any other economic enterprise. The New York *Times*, in short, is protected, but General Motors is not. And, in truth, in the presence of such plain language as the First Amendment uses, there is no escaping the force of the late Hugo Black's famous insistence that when the Constitution says "Congress shall make no law . . . abridging the freedom of speech, or of the press," it means that Congress shall make no law abridging the freedom of speech, or of the press.

As Mr. Bickel shows, there were restrictions on freedom of speech that even Black was willing to impose, not because he was a hypocrite or more than ordinarily inconsistent, but because it is virtually impossible to tolerate absolute freedom of speech under any and all circumstances. Still, no sooner does one acknowledge this than the inexorable clarity of that language rises up to haunt one again: "Congress shall make no law . . . abridging the freedom

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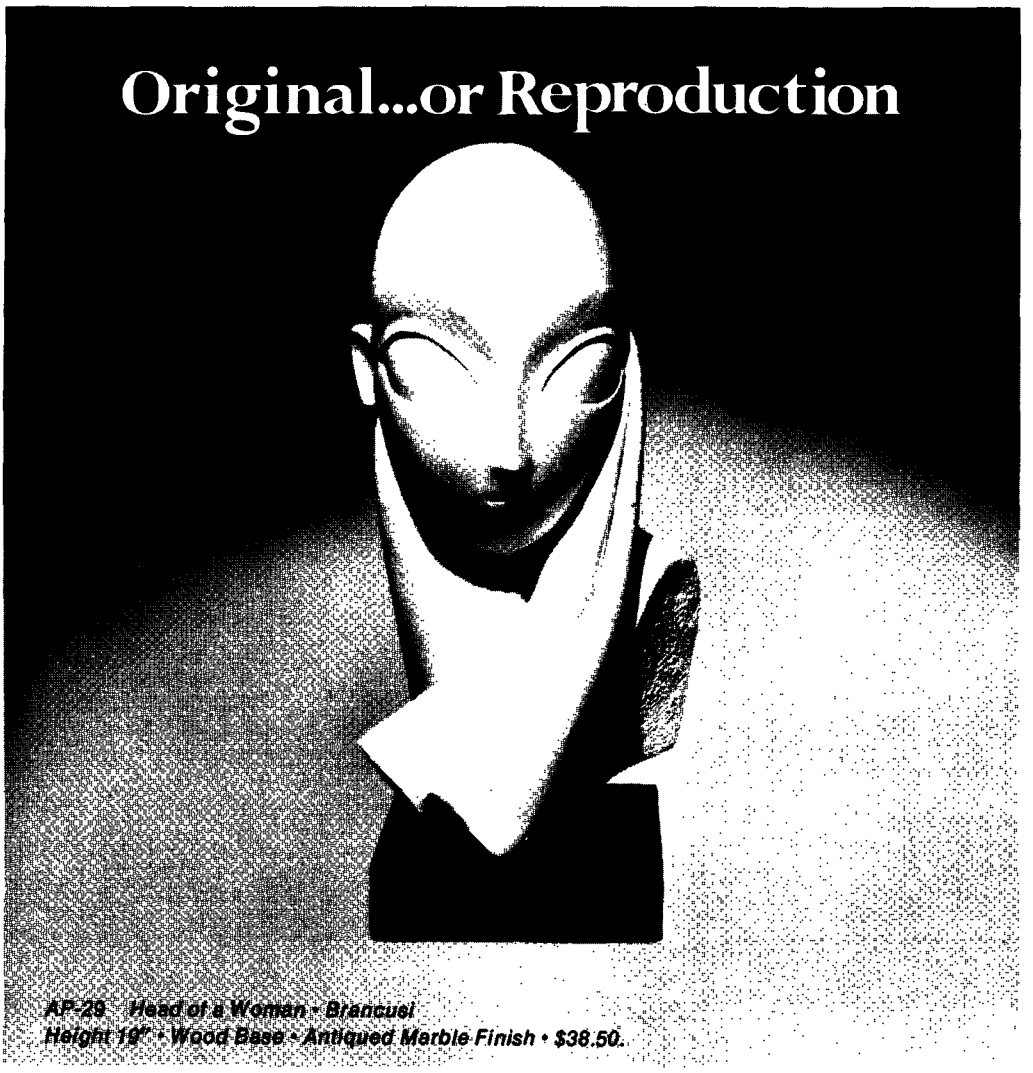

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of speech, or of the press." What can be done with words like these? When in another clause of the First Amendment the Constitution forbids "an establishment of religion," or when in the Eighth Amendment it prohibits "cruel and unusual punishment," the way is left wide open to judicial interpretation. Does federal aid to parochial schools violate the prohibition against an establishment of religion or not? Is the death sentence for murder cruel and unusual punishment or not? The answers are by no means obvious, and both the negative and the positive are reasonably consistent with the language of the Constitution. But no such vagueness attaches to the clause dealing with freedom of speech and the press. Thus although there are good reasons for restricting those freedoms under certain circumstances—in wartime, for example, or in Holmes's crowded theater where, he decreed, the First Amendment does not protect the right to cry "Fire!"—the words of the Constitution themselves cannot be convincingly read to admit of any restriction.

It would seem to me, then, that so long as we continue to honor the First Amendment, we will continue to be burdened as a political community with more freedom of speech than may well be good for us to live with, assuming that it is even humanly possible. In this respect Americans, commanded to accept absolute freedom of speech, may be compared with Christians commanded to turn the other cheek: neither can succeed in obeying but both are required to try, and both will be led uneasily into casuistry whenever it becomes necessary to sin against the clear sense of the injunction.

HOWEVER, precisely because we must try to be absolutists where freedom of speech is concerned, it is all the more important to maintain as firm a distinction as we can between speech and other forms of behavior not singled out by the Constitution for privileged protection. Mr. Bickel is certainly right when he observes that the effort to draw "a bright line between communication and conduct" often falls into absurdity. But surely there *is* a line in reality between verbal and non-verbal behavior, wavering and fuzzy though it may generally be. To hurl an obscenity at a policeman, for instance, is speech; to hurl a rock at him is not and neither is spitting in his face. Yet we hear it claimed on the one side that the First Amendment does not extend to the former, and we hear it claimed on the other side that actions like the latter are a kind of speech and hence protected by the First Amendment. Well, distinctions can always be blurred, but I for one would like to see more energy devoted by the courts and everyone else to keeping the line between verbal and non-verbal behavior clear even if, as Mr. Bickel says, there can never be any hope of always keeping it bright. ■

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**Bank Marketing Management, Feb., 1970.*

About the Authors

Martin J. Meyer is president of the National Depositors Cooperative Association. He also serves as Vice President and Secretary of Intercept Tele-Communications, Inc., a new international cable and telegraphic interception and forwarding organization. Mr. Meyer has written numerous magazine articles on banking, thrift, and inflation.

Dr. Joseph McDaniel, Jr. was secretary of the Ford Foundation from 1953 until his retirement in 1967 and Dean of the School of Commerce at Northwestern University. His distinguished career includes President of World Health Foundation (U.S.A.) and government service with the Economic Cooperative Assn.

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Letters from Readers

"McGovern, Nixon & the Jews"

[*Despite the fact that some readers may not see the following letters on "McGovern, Nixon & the Jews" (September) until after the election, when many of the issues they raise will have been resolved, we are publishing them for the record, without replies by Nathan Glazer, Milton Himmelfarb, and Norman Podhoretz.*—ED.]

TO THE EDITOR OF COMMENTARY:

The exchange between Nathan Glazer and Milton Himmelfarb illustrates again how myth and superstition dominate political debate—even (especially?) among intellectuals.

Although they reach different conclusions, both writers take as common ground that Nixon "has done more for Israel than any other American President" (Glazer), or "is a proved friend of Israel" (Himmelfarb). For these factual premises, there is no supporting evidence or documentation of any kind. . . . Neither writer mentions that the only pro-Nixon public statement by an Israeli official—that of Ambassador Rabin—was promptly and unequivocally repudiated by the Israeli government.

I have just returned from a trip to Israel that I undertook in my capacity as foreign-policy adviser to Senator McGovern. I saw a score or more of high Israeli officials, including Prime Minister Meir, Deputy Prime Minister Allon, Finance Minister Sapir, and Foreign Minister Eban. Each of them assured me explicitly, and I believe sincerely, that they have no qualms whatsoever about a McGovern Presidency. It was interesting to hear *their* comparisons among American Presidents, even leaving aside Harry Truman, whose prompt recognition of the State of Israel is regarded by all as critical to the survival of the new nation.

I was repeatedly reminded in these conversations that the first decision to make sophisticated weaponry available to Israel was made by President Kennedy, when he authorized the sale of Hawk missiles, after eight years of an "even-handed" Middle-East policy under the Eisenhower-Nixon administration.

The decision to make high-performance aircraft available, I was told, was made first by President Johnson with the sale of Skyhawks in 1966. And President Johnson, in January 1968, made the first decision to sell Phantoms to Israel. One of the highest officials in Israel told me it was his belief that this Johnson decision on Phantoms made it difficult if not impossible for President Nixon to refuse them.

And finally, Israelis stressed the support of President Johnson and Ambassador Goldberg in the UN Security Council after the Six-Day War, which they believe prevented a rollback of the Israeli armies. They explicitly contrasted this support and result with the actions of the Eisenhower-Nixon administration in 1956, after Suez.

And what of the record of tried and true friendship, about which Mr. Himmelfarb seems so clear? How far does it extend before December 1971, when, with an election year looming ahead, Nixon finally released the Phantoms that had been promised to Israel and authorized by the Congress years earlier?

Have we forgotten the first three years of the Nixon administration? Have we forgotten the Rogers Plan to roll Israel back to her pre-1967 borders? Have we forgotten how, in order to put pressure on Israel to make these concessions and others proposed by the administration, President Nixon for three years refused to deliver the Phantoms and other military equipment already authorized and promised? Have we forgotten how many times American-Jewish leaders went to friends in the Senate to implore them to put pressure on the administration to fulfill its promises and the intent of Congressional legislation?

Here is a partial list:

April 24, 1969—70 Senators issue a statement warning against an imposed settlement in the Middle East. Senator McGovern is among them.

May 23, 1970—7 Senators, all leading critics of the administration's Vietnam policies, write President Nixon urging him to sell aircraft to Israel. Senator McGovern is one of them.

May 26, 1970—76 Senators write to Secretary Rogers calling attention to

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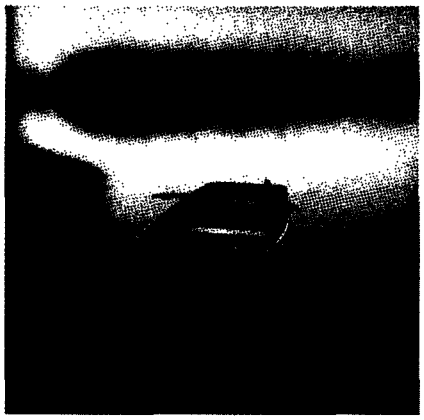

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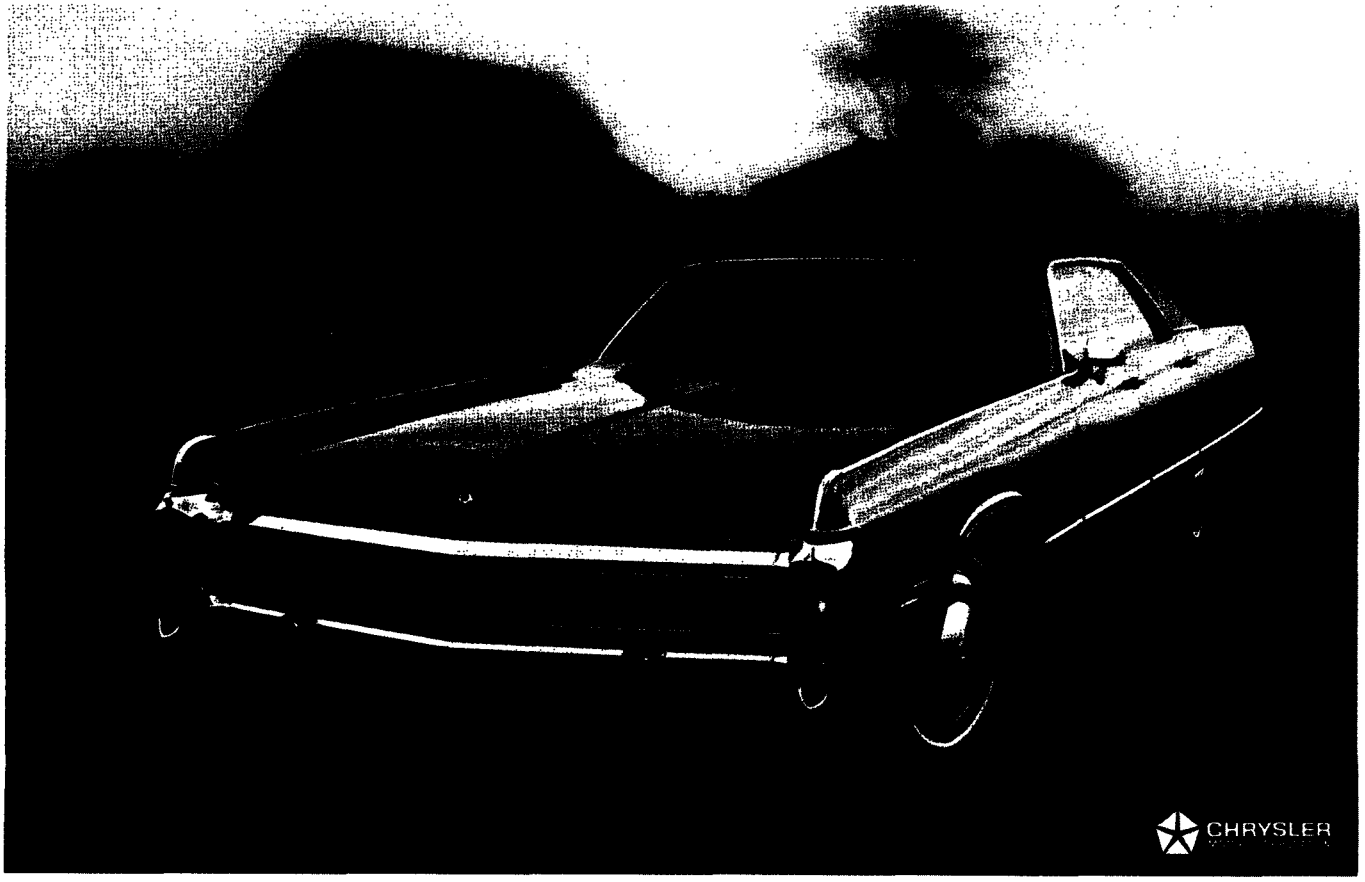

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Soviet intervention in the Middle East and urging the shipment of Phantoms to Israel. Senator McGovern is one of them.

July 30, 1970—72 Senators write to President Nixon, citing the previous letter to the Secretary of State, and emphasizing the importance of "recognized and secure" borders for Israel as part of any Middle East peace settlement. Senator McGovern is one of them.

October 15, 1971—78 Senators co-sponsor Senate Resolution 177 calling for the immediate shipment of Phantoms to Israel, at a time when Israel was desperately seeking assurance that it would get more than the 18 Phantoms that had been doled out at the rate of two per month. Senator McGovern was one of them.

November 23, 1971—Only ten days before Prime Minister Meir's visit to Washington that finally turned the tide of the Nixon policy, the Senate voted—*against the wishes of the administration*—to provide $500 million in military credits for Israel with $250 million earmarked for Phantoms. Senator McGovern voted in favor of this measure.

There are other things to remember: the administration's denial that the Egyptians and Soviets had breached the August 1970 cease-fire agreement, until the evidence was overwhelming, and the strip west of the Suez Canal had been turned into one of the heaviest air defense areas in the world today—far worse than anything U.S. pilots face in Vietnam. And do you recall Secretary Rogers demanding "equal time" after Abba Eban had given a private briefing for a number of Senators in March 1971?

No, the public record of Mr. Nixon—including his eight years in the Eisenhower-Nixon administration and his term as President to date—is not a record of proven friendship for Israel, as Mr. Himmelfarb defines it. Nor does it support the proposition that Nixon has done more for Israel than any other American President.

Looking to the future, we must ask how Nixon's balance-of-power concepts will be applied in the Middle East now that the Soviet troops have been withdrawn. The Rogers Plan has never been specifically repudiated by the administration, although Senator McGovern has challenged them many times to do so. And Assistant Secretary Sisco has said, rather ominously I would think, that there will be no change in the administration's Middle-Eastern policy *until after the election.*

Now that there is no direct cold-war confrontation in the Middle East, will we see a renewed effort by Nixon to impose a solution cooked up at the summit? It is clear that if the administration can make hay or history out of such a deal, they will sacrifice the interests of "client" states without compunction to achieve it. Chiang Kai-shek has learned that lesson, and Richard Nixon had a much stronger record of proven friendship for him than for Golda Meir!

I cannot agree with Mr. Himmelfarb that the overriding interest for Jews in this election should be which candidate will do more for Israel. I think we should, like other Americans and perhaps a bit more, assure ourselves that the candidate will recognize and uphold America's interest in the independence and survival of Israel; but beyond that, I should think there would be many important grounds of difference between the candidates, for Jews as well as other Americans.

But for those Jews who do believe that Israel is the decisive issue, they had better decide that issue on the factual record, rather than taking Mr. Himmelfarb's—or even Mr. Glazer's—word for it.

ABRAM CHAYES
Cambridge, Massachusetts

TO THE EDITOR OF COMMENTARY:

It is difficult to react without irritation to the three articles dealing with the Presidential election. Yet, as one who is Jewish, liberal, a Democrat, and an admirer of COMMENTARY (and the three writers) . . . ; as one who was a political professional . . . ; and as one who will happily vote for Nixon . . . , I am moved to communicate my consternation that on a subject of such importance . . . COMMENTARY and the authors performed so inadequately. . . .

It is perhaps not surprising to find Nathan Glazer still (like the New York *Times*, or the Washington *Post*, and TV pundits who fell on their faces predicting the summit talks would not take place after the President mined Haiphong), unable to understand the efficacy of the President's actions in Vietnam, but it is still annoying. How many times does Nixon have to (1) do exactly what he says he will do; (2) have it work;

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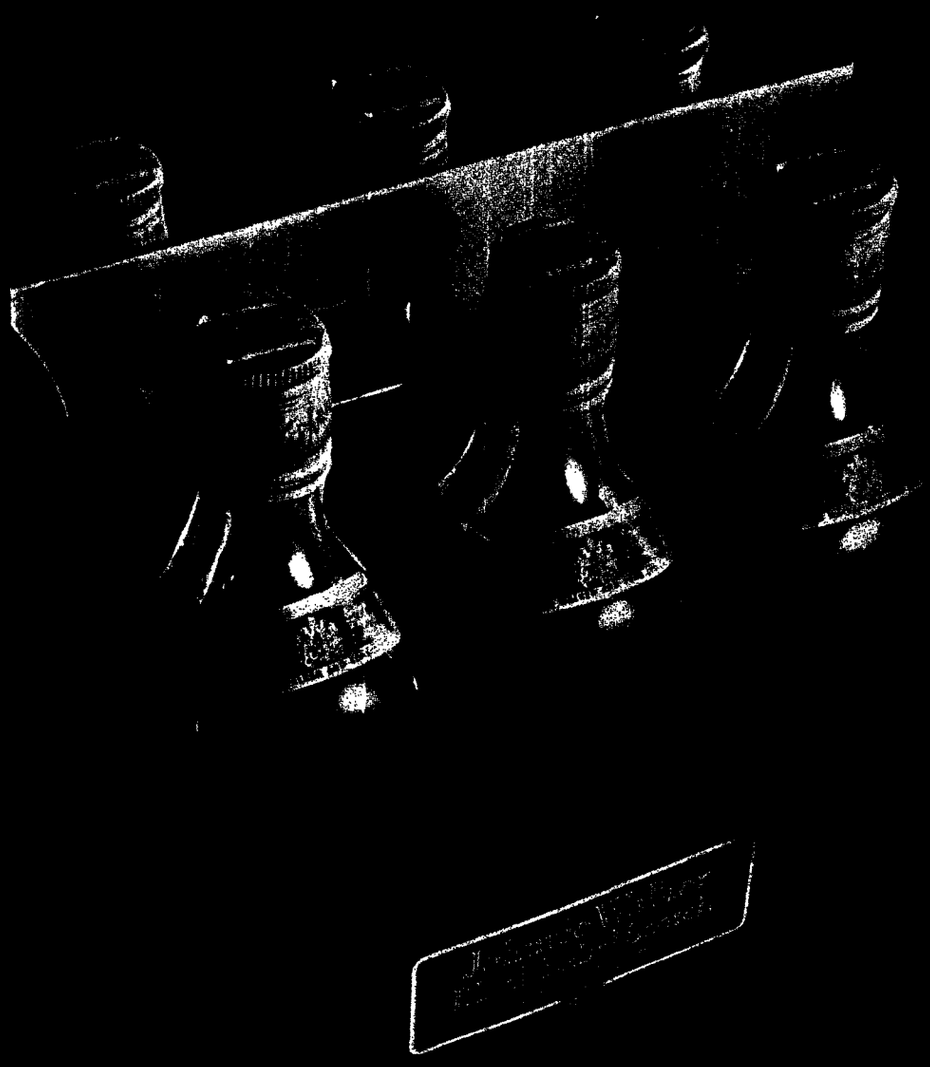

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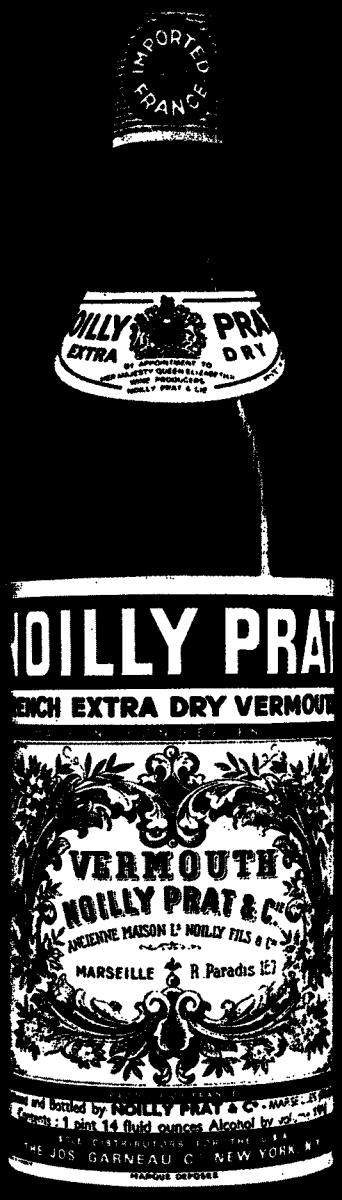

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and (3) achieve his foreign-policy goals, before he is given some credibility by such liberals as Mr. Glazer? . . .

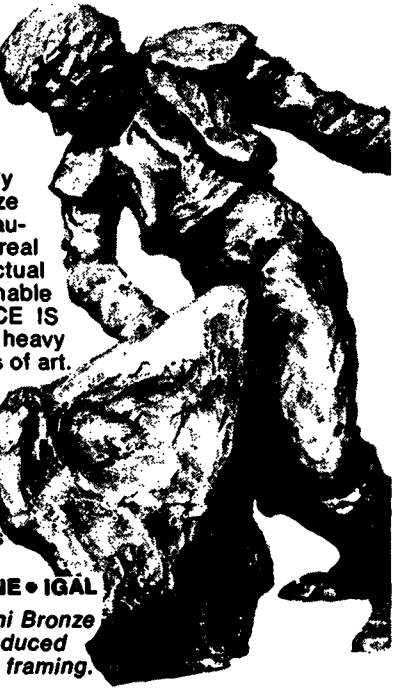
Let me emphasize that I do not attack Mr. Glazer as an individual. It is, rather, the large tendency among liberals who write or speak on the subject of Vietnam, who substitute a moral and emotional position for facts and evidence. Mr. Glazer illustrates this very well. He is amazed, for example, "that President Nixon still acts as if American military power could be used in defense of our allies and that other countries act as if they credit this possibility." But surely they do. The Russians did get out of Egypt; they did not want a confrontation with us over Israel; they appear to believe that maybe we would use our military power. They have been pressuring North Vietnam to come to terms with us. So have the Chinese. The summits came off. Once more, Mr. Glazer writes, of the countries of Southeast Asia, "I do not believe for a moment that these countries would be less fortunate under the rule of Communist North Vietnam. . . ." But they have indicated again and again, privately and publicly, that they think they would.

It does not occur to Mr. Glazer, or to those who take these automatic positions on Vietnam, that Israel may approve of Nixon's policies . . . because his views on foreign policy, on what our national interests really are, on what our role in the world should be, and those of Israel, are similar, very, very, similar. It is possible to suggest, in fact, that Golda Meir and Nixon react in very much the same ways to terrorists, aggression, and the defense of freedom. It is old-fashioned of me, no doubt, perhaps it even proves that I am not a liberal, but I found it strange that none of the writers so far as I could see . . . ever used the word freedom. . . .

I am bothered by Mr. Glazer's let-us-go-with-the-drift-of-things apathy, and while Milton Himmelfarb responds nicely to this . . . I was also disappointed that neither man was willing to be more than superficial on this fundamental issue: the meaning and nature of the changes taking place around us, and how the election relates to them. . . . Which brings this question to my mind: What has become of the "we" that Lionel Trilling had always used to define us—the middle-class, liberal, intelligentsia; the men of good will, and of the humanities, and of scholarship; the decent, the fair-minded, the two-cheers-for-democracy types? Are the "we" of Trilling's imagination, who have read Tocqueville on equality, and Mill on liberty, and Freud on culture, are we still a "we"? And are we still liberals and are we voting for George McGovern the way—COMMENTARY's writers all agree—"we" have always voted for the more liberal candidate?

It is not only the fact that the answers to all those questions are more likely to be "no" today than they have ever been before that should give us pause; it is the implication of that fact. This, COMMENTARY's pieces have failed to record, and failed to deal with. The positions taken by McGovern, and those represented by him, may be New Class, New Politics, New Left; they are not liberal in the traditional sense of that word. . . . And I for one am not yet prepared to allow McGovern or

for the Sophisticated Collector



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COMMENTARY to preempt liberalism for those whose real regard for our liberties at home and our freedom in the world is less clear, and much less evident than their zeal for a kind of equality that does not and cannot be made to exist; a stationary society; a pacifist world posture; a contempt for learning; an ignorance of history; and an awful misunderstanding of the workings of culture.

Mr. Glazer lightly glosses over the McGovern views on "housing . . . urban renewal . . . crime . . . juvenile delinquency . . . elementary education . . . higher education, etc." We don't know his views, according to Mr. Glazer. . . . But McGovern has voted on all these issues, and spoken on them. . . . There is in fact a record there . . . an intellectual cast of mind . . . a quality of judgment. It is elitist, chic, and superficial; inadequately stocked, fed by the day's news, keyed to the latest communications fashions. . . .

I find that the articles are like so much that has appeared in COMMENTARY this past year, so much of what these men themselves and others have been writing about. They do not seem to follow their own logic, their own researches, their own thinking, to the inevitable conclusion. They write incisively about "liberal" delusions on crime, the constitutionality of the war, housing, busing, education, the poverty programs. . . . But then they stop in their tracks. They do not say: the Nixon administration is right on this, or the Democrats are wrong, or—God forbid—Richard Nixon is more of a liberal than George McGovern, or at least, on this one Richard Nixon's liberal advisers have won him over. I am left with the conviction that the editor of COMMENTARY and his writers persist in their "dislike and hatred" of Richard Nixon on emotional and personal and personality grounds: they don't like him; "we" are not supposed to like him; one can't vote for or openly support him. . . .

Yet there are some of us who are Jewish, who are Democrats, who are educated, and who are voting for Nixon . . . without reservations or apologies. . . .

BERNARD E. NORWITCH
Reston, Virginia

TO THE EDITOR OF COMMENTARY:

Norman Podhoretz writes that liberals go on hating President Nixon "much more than, on the record, they rationally should." The Jews, in his view, are even greater sinners because they, "with an even lesser degree of rationality, dislike him on their own."

If liberals and Jews read Richard Nixon's record as Mr. Podhoretz presents it, there might be some reason for accusing them of irrationality. But if they read the Nixon record as Nixon wrote it, it is apparent that both Jews and liberals are quite rational in their appraisal of Nixon and the sinner is Mr. Podhoretz, who presents a whitewash of Nixon as the actual "record."

Mr. Podhoretz cites a few examples of the negative in the Nixon record. Observe the tendentious manner in which even the "indictment" is presented. The President "has taken a tough line on civil disobedience and direct action protest." "Tough line" indeed! Was the intolerable public "trial" of Reverend Berrigan by J. Edgar Hoover, then backed by the Justice Department, a "tough line" against direct actionists, or was it an example of Nixon's contempt for the Bill of Rights? Fortunately a jury of twelve good men and women opted for the Bill of Rights. From dragnet arrests to a widespread use of wiretapping, the issue was not a tough line against transgressors by the Nixon administration, but a record of violation of the Bill of Rights.

Mr. Podhoretz's indictment on Indochina is limited to mention of Nixon's invasion of Cambodia and the "intensified air war in North Vietnam." Liberals and most Jews read the Nixon record on Vietnam more seriously. They remember the lying promises about a "secret plan" to end the war. They remember the categoric statement by Nixon that anyone who couldn't end the Vietnam war in four years (between 1964 and 1968) didn't deserve another chance. They see the total immorality of the Vietnamization policy and are concerned that it is a formula for permanent war in Indochina.

Mr. Podhoretz says Nixon "has appointed conservatives to the Supreme Court." Even George Meany would boggle at that gentle description of the nomination of Carswell and Haynsworth and the appointment of Rehnquist. Many conservatives were appalled by Nixon's evident contempt for the judicial branch of the federal government.

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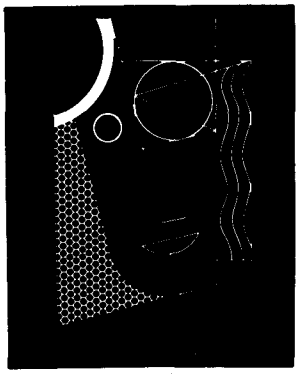

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On the whole Southern strategy Mr. Podhoretz has one gentle comment, Nixon "has come out against busing." Again, even Meany and the most moderate of civil-rights spokesmen might wonder what record Mr. Podhoretz is reading. Nixon employed the Southern strategy and the busing issue to blast school integration and to win votes by an appeal to prejudice. . . .

Mr. Podhoretz's recitation of the "positive" aspects of the Nixon record is longer, but no less misleading.

"He has proposed a guaranteed annual income." But he set it so low that even the proponents of a guaranteed annual income found it a poor substitute for the present welfare mess. Nor did Nixon even bother to have the proposal included in the Republican platform! And now that McGovern has presented a meaningful program for a guaranteed annual income (along with provisions for raising the necessary revenues, which Nixon never did) the administration has attacked the whole concept so the country will know that its omission from the GOP platform was not accidental.

"He has instituted wage-and-price controls." But Meany and the other labor members of the board resigned because, while wages were controlled, prices continued to soar. Now comes the official admission that in the year of control retail prices rose higher than they did in the year without controls.

"He has withdrawn half a million men from Vietnam." Yes, but 20,000 were withdrawn in coffins, after the promise to unveil a secret plan to end the war. And the least a liberal, or most Jews, would add by way of qualifying that achievement is that Nixon expanded the naval and air force operating in Indochina and he is now pouring a greater weight of bombs on that tiny country than we did in all of World War II on Germany and Japan combined!

"He has enunciated a foreign-policy doctrine involving a lesser degree of American intervention in international disputes." Shouldn't that be qualified to include Nixon's intervention on the side of the military dictatorship of Pakistan, alongside a new ally, China, against Bangladesh and India? It may not have been a large quantity, but those were American and Chinese weapons used in the massacres of the Bengali people.

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The Curious Legend of La Dame Blanche

Long, long ago, in the Bordeaux region of France, there lived a handsome young Count.

The estate on which he lived had a truly remarkable vineyard, from which came one of the finest wines in all of France. This wine was treasured throughout the land and was a source of great pride to the young aristocrat.

The people all loved him, for he was very good to them, and the fine wine he produced brought prosperity to them all.

However, they were concerned about one thing.

He had not yet found a wife.

One day, the Count decided to take a holiday, and he journeyed to Morocco. There he met a beautiful Moorish princess with dark mysterious eyes and black silken hair.

And skin the color of dark topaz.

She was, he thought, the most beautiful woman he had ever seen, and he fell hopelessly in love with her. And she with him. And so they were married.

When the news of the beloved Count's marriage to a dark-skinned woman reached the people, they were dismayed. And when he brought her home, they turned their backs on her. Why couldn't he have married one of his own kind?

Despite this, the pair lived happily together until the Count died. Then, his loving wife did something that shocked everyone.

She came to the funeral dressed in white... the color of mourning of her native land.

No one in France had ever worn anything but black for mourning. Oh, she had strange ways, this dark foreign woman.

The bereaved Countess wore nothing but white for the rest of her life, for she had loved her husband very much. So much so that, in his tradition, she continued caring for the vineyard. Which, in turn, continued to produce the superb wine.

She was really a very kind woman, and, like her husband, treated the people well. Slowly, they began to accept her. And they learned to love her as much as they had the Count.

Later, when she died, they all came to her funeral to honor her.

And they came dressed in white.

Now, here is the curious part of the story.

Ever since the death of the Countess, on certain mornings at dawn, a strange white mist drifts across the meadow and surrounds the Chateau.

And the people seeing this phenomenon, say, "La Dame Blanche has returned". So when the white mist appears, the people are happy to be reminded that La Dame Blanche remembers them.

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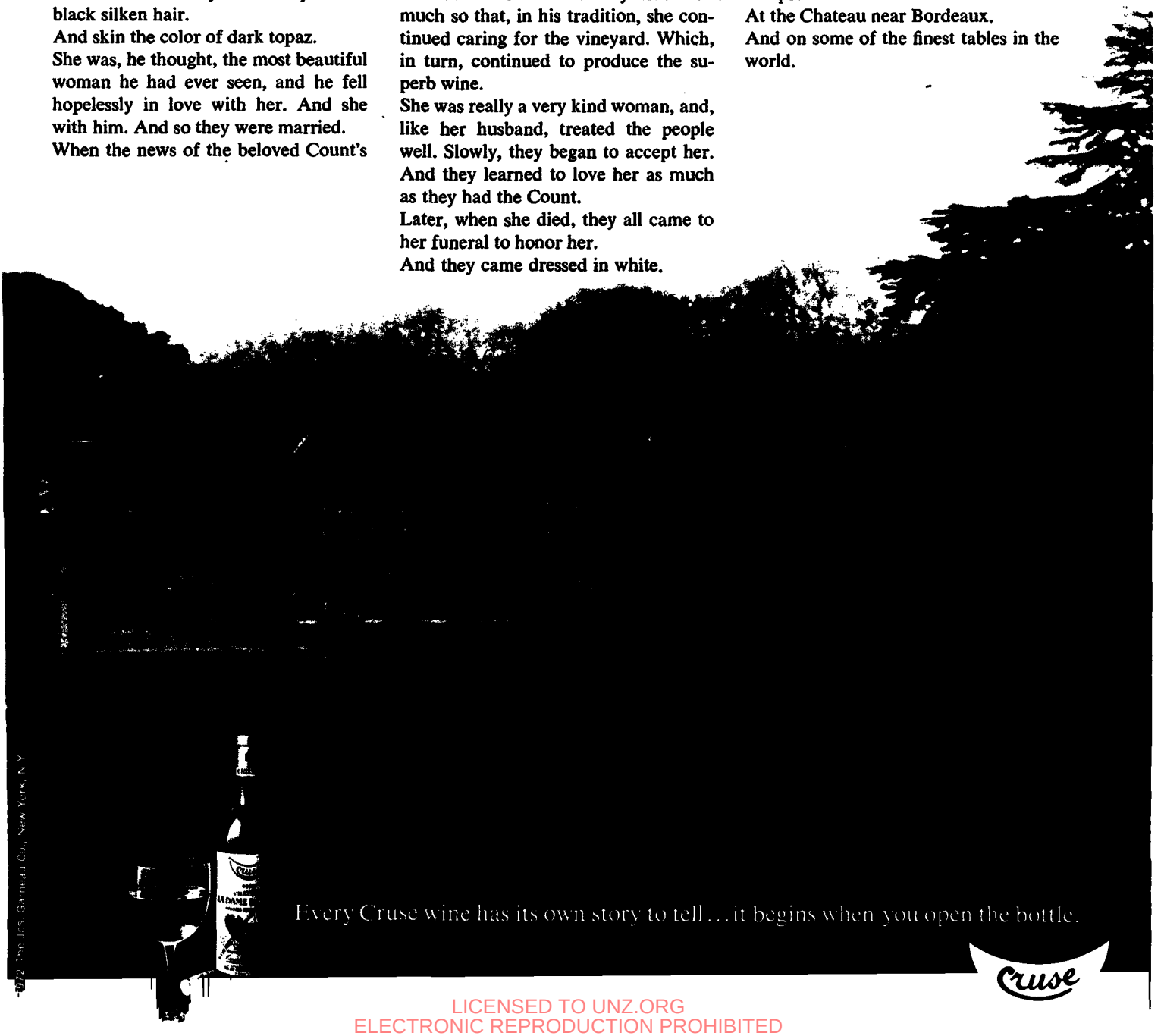

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And the intervention in support of Greece and Portugal, the emphasis on military aid as against economic aid, has of course been characteristic of the Nixon foreign-policy style.

"He has visited Communist China." Yes, the man who was to a great degree responsible for the decades of the boycott and embargo on China reversed his field. But shouldn't that achievement be qualified by noting the blatant manner in which Secretary of State Rogers used that reversal as an election claim that the visit to China would bring imminent peace to Vietnam?

"He has negotiated an arms-limitation treaty with the Soviet Union. . . ." But thus far it has led to a more than $4 billion increase of the already exorbitant military budget and Senate Majority Leader Mansfield says that Nixon is sabotaging his own treaty! . . .

Mr. Podhoretz might not be so puzzled by liberal and Jewish sentiments about Nixon if he paused in his labors of rewriting the Nixon record.

JOSEPH CLARK
Brooklyn, New York

TO THE EDITOR OF COMMENTARY:

Nathan Glazer shows that by any rational calculus America should not be in Southeast Asia. In the same fashion he shows that we would not support Israel with troops, etc. if it came to a struggle for her survival. But we *are* in Southeast Asia, in defiance of a rational policy; the enemies of Israel—the Arabs and the Soviet Union—know this, but they do not overwhelm Israel. Why not? Because there is an irrational component in American foreign policy which is being skillfully and rationally exploited by the poker player who now occupies the White House.

George McGovern is an eminently rational man. Should he become President, the Soviets will have no cause to wonder what he might do in any contingency. I think he would view the Israelis under Soviet attack the way Roosevelt viewed the Jews under the Nazis—as tragic victims beyond the reach of a prudent American foreign policy. As for Nixon, consider his Chinese policy. Who knows what such a character might do next? Where questions of Jewish survival arise, McGovern can be counted on to do what is fair (not right), that is, to deal with petitioners evenhandedly; and Israel will go down the drain along with the American-Jewish community. . . .

EDMUND B. FELDMAN
University of Georgia
Athens, Georgia

TO THE EDITOR OF COMMENTARY:

. . . Nathan Glazer's understanding of international power politics and his failure to see the grave danger to Israel (let alone the remainder of the free world) which would result from the election of McGovern betray a naiveté astonishing in a scholar of critical intelligence. I am prepared to sympathize with the observation that the countries of Southeast Asia would not be less fortunate under the rule of Communist North Vietnam than they have been for the last seven years of war and suffering. That is a moral judgment which Mr. Glazer can make from the sanctuary of Harvard, although I am not so sure that anybody has a right to play God and tell a South Vietnamese he should stop fighting and dying to protect his freedom and liberty.

I agree with Mr. Glazer that for Jews the survival of Israel is a transcendent interest, but I am not prepared to concede that the foreign policy of McGovern will provide Israel with a greater degree of security than the policies of Nixon. Mr. Glazer rests his case (such as it is) on the ground that Nixon erroneously acts as if American military power can be used in defense of our allies. Mr. Glazer does not see to what purpose we move our aircraft carriers around—since they will not be used against Russia or the Arabs to protect Israel. And besides, says Mr. Glazer, the effectiveness of our commitment to Israel is not based on the belief that America would actually go to war; then who cares if McGovern would cut the military budget—this would not weaken the credibility of an American commitment to defend an ally. But just what the effectiveness of our commitment is based upon, he fails to make clear. . . .

The ingenuousness of this argument is staggering. What the U.S. would do under any President, if the chips were down and a concerted Arab assault with the aid of Soviet weapons were launched against Israel, is highly unpredictable—but we do know this: the one power which stands in the way of the Soviets' pushing the go signal for the Arab madmen is the

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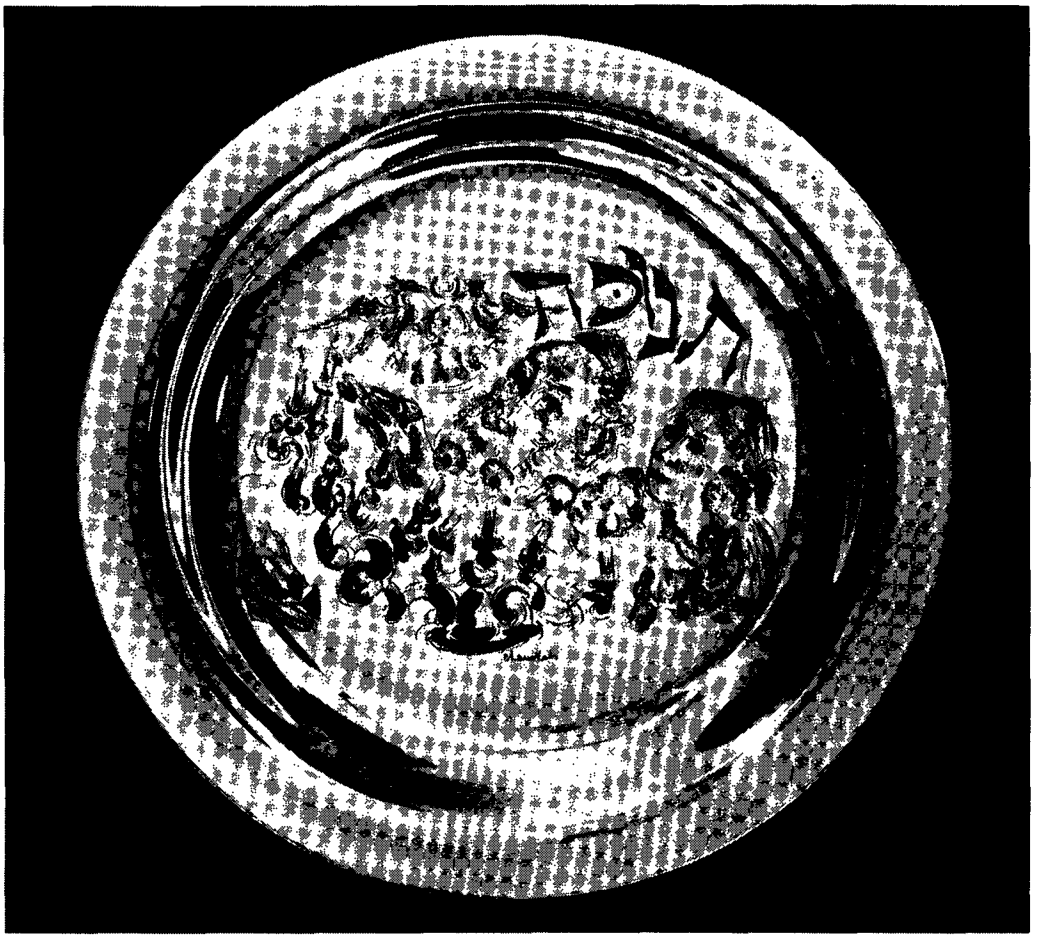

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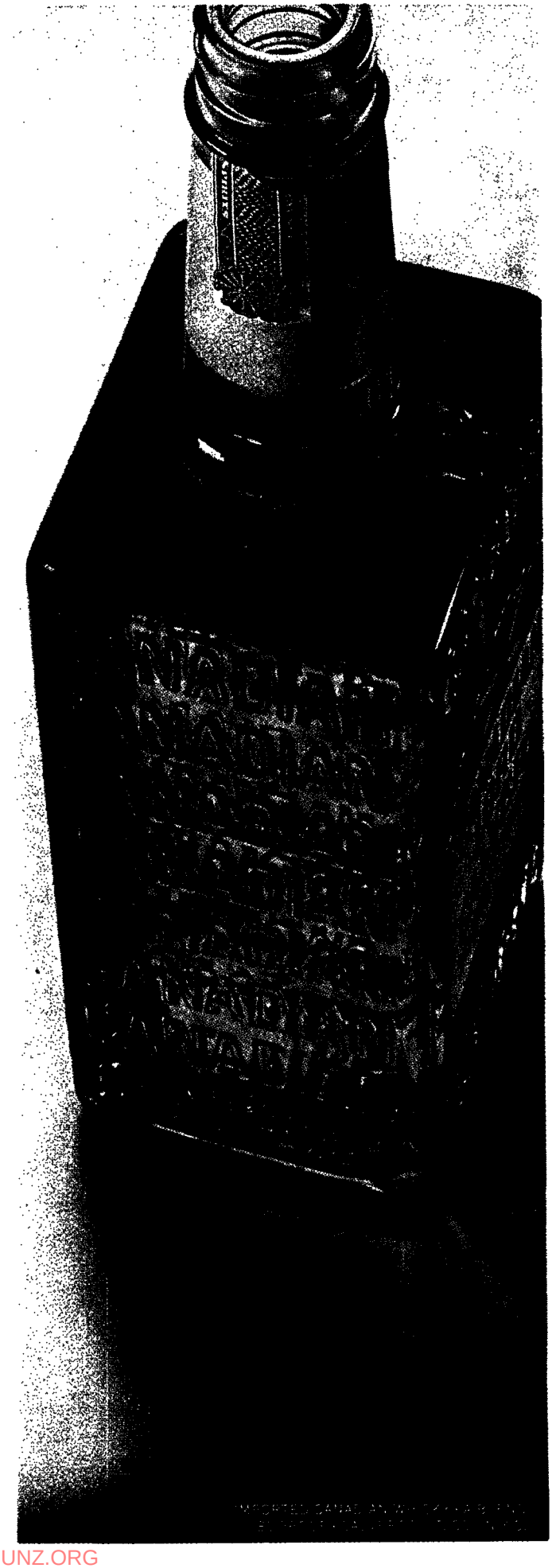

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United States. It is false to assert that the credibility of our commitment to an ally does not rest in part on the possibility that we would use our military power to protect an ally, as well as on past experience in demonstrating our will to support such allies. The Soviet Union apparently does not subscribe to Mr. Glazer's theories about credibility—since its ships roam the seas precisely to establish its will to defend its allies. The fear on the part of the Soviet Union and its Arab satellites that they might be plunged into a confrontation with the U.S. is all that protects Israel. To weaken the power of the U.S. as McGovern would do, and to announce in advance to an enemy that we have no will to fight, is virtually to assure the destruction of Israel. . . .

DAVID S. LICHTENSTEIN
Chevy Chase, Maryland

TO THE EDITOR OF COMMENTARY:

I feel that both Nathan Glazer and Milton Himmelfarb overlooked some important reasons why a Jew and a liberal should not vote for Nixon in the forthcoming election.

To begin with: the attempt of the administration to bully and control the press; the bugging of Democratic headquarters; the squelching of all disagreement at the Republican Convention and the attempt to guarantee right-wing control of the next Republican Convention are all products of a philosophy inimical to a democracy. . . . With the prospect of additional Nixon appointees to the Supreme Court in the next four years, we will be lacking the vital protection that this august body has afforded us, particularly since the 1930's. . . .

An administration that plays fast and loose with civil rights cannot be overly concerned with the welfare of a Jewish democratic state in the Middle East. . . . There is nothing in the philosophy of the Nixon administration to indicate that there is any allegiance to Israel or what it stands for. To the extent that support of Israel will gain votes and to the extent that the Nixon administration views support of Israel as helpful to the United States in its struggle with the Soviet Union, to that extent will the administration be for Israel. . . .

There is no evidence that there is any commitment to Israel beyond this. I view this attitude toward Israel as similar in character, though opposite in direction, to the Soviet Union's attitude toward Israel and the Jews. There is nothing in the tenets of Communism or socialism that remotely justifies the Soviet Union's anti-Semitism. Yet when it suited their purpose, they were one of the first states to recognize Israel and when it suits their purpose, they support the enemies of Israel. . . .

MARCUS GILDIN
Yonkers, New York

TO THE EDITOR OF COMMENTARY:

. . . Can any intellectual honestly believe that Israel is the only issue that Jews must consider? In fact, can any Jew who knows anything at all about politics and policies in the United States . . . honestly believe that any President would forsake Israel and not lend aid and comfort to it? Can anyone at all really believe that from Roosevelt on, and that includes Truman, Eisenhower, Kennedy, and Johnson, we did not favor the State of Israel? Perhaps John Foster Dulles struck a pro-Arab pose, but not his President. . . .

Do these people know what Jews in the United States are? They are people interested in themselves, their families, their homes, their communities, their country, in the worth of life, and in the quality of life. . . .

Are day-care centers of no importance? Is aid to education of little value? . . . Do we want to help the poor and the infirm? Do we want to deliver decent health to all? Do we want to improve life for the aged? . . . Do we want to see that the executive branch of government and the courts grant equal protection of the laws? . . . Do we want to countenance a police state? Do we want the national government to give us aid in the large welfare problem? Do we seek population control on the part of government? . . . Do we want to eradicate our ghettos? . . . Do we want to end unemployment? Do we want to check inflation? Do we want to prop up corrupt war machines for bad governments? Do we want to do away with special tax exemptions for the wealthy? Do we want to end warmaking? . . . Do we want to help minorities? . . .

Aren't any of these things important to Jews? Are they only important to non-Jews? Look in the mirror; they've been important to Jews for generations. Aren't they

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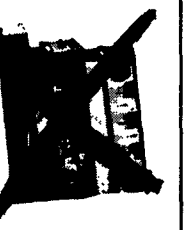

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important in the selection of a President? Can anyone, can any Jew, say that this year there is no choice in any of these things between a McGovern and a Nixon? . . .

And quotas! Is this world upside-down? Jewish quotas were established for one reason: to discriminate *against* Jews. A black or Spanish or American-Indian quota . . . was also established for one reason: to lessen discrimination *against* these minorities. Some quotas hurt people. Some *help*. There's a difference. The difference sometimes is known by another name—Justice. . . .

SAUL C. DOWNES
New York City

TO THE EDITOR OF COMMENTARY:

. . . Only a generation after the Holocaust, Milton Himmelfarb is urging us to help reelect a President who continues a campaign of mass personal and ecological destruction in Southeast Asia. But then Mr. Himmelfarb isn't really concerned about the war—he doesn't mention it once: he would rather polemicize about Israel and quotas. . . .

On Israel, Mr. Himmelfarb assures us, unequivocally, "McGovern's inferiority to Nixon must be manifest." It must be, for Mr. Himmelfarb offers no concrete facts about the Senator, except to condemn the Arabist tendencies of some of those who support him. Then we learn that the Senator stands for "diplomatic and military withdrawal." Rather inconveniently, he omits quotations; if the Democratic candidate were all that unequivocal, Mr. Himmelfarb would at least be able to dredge out a few sentences. Yet the most recent of any such possible statements was in 1968—McGovern's remark that Israel should withdraw from most of the occupied territories and internationalize Jerusalem. Since then, McGovern's voting record has been consistently pro-Israel in the strongest possible way. And the 1968 Democratic platform, which Mr. Himmelfarb conveniently neglects to mention, offers the strongest possible support for Israel, including the pledge of sufficient strength in Europe to insure Israel's security.

While Mr. Himmelfarb's memory goes back years on McGovern, it seems rather short when it comes to the Nixon administration: has he forgotten the 1969 Rogers Plan, calling on Israel to pull back unilaterally from the Suez Canal? Has he forgotten the weak administration response to the building up of missiles along the Suez Canal after the cease-fire in the late summer of 1970? And surely Mr. Himmelfarb must know that Mr. Nixon's supposedly steadfast support for Israel is based far more on cold-war geopolitics than on any inherent love for the Jewish state. Already there are signs of rapprochement with some of the Arab states, and with the Russian withdrawal from Egypt, more may be in the wind. . . .

We find the candidates' stands on Israel are substantially the same: both have at one time asked Israel to make territorial or strategic concessions to her Arab neighbors, positions which they have since deemphasized or dropped altogether while insisting on Israel's need and right to maintain military parity. Conversely, neither has taken a firm position on American military intervention in the event Israel faces a crisis of survival. (Indeed, the protraction of the war in Indochina under the Nixon administration, by weakening American interests in other parts of the world and feeding whatever neo-isolationist flames there are, has made such intervention less probable in the future.) Finally and regrettably, neither man has really addressed himself to the Palestinian refugee problem or the possibilities for a Palestinian state. . . .

Mr. Himmelfarb does note that university quotas have been pushed by Nixon's appointee at HEW, J. Stanley Pottinger. Yet while Senator McGovern is, under Mr. Himmelfarb's scheme of things, responsible for whatever statements his advisers and supporters happen to make, the President, "though he cannot avoid the responsibility for Pottinger," is credited with good faith on the quota issue because "Pottinger is not close to Nixon." . . .

Finally, on "the great question of equality and justice," is it really possible that Mr. Himmelfarb has forgotten that Nixon is the President who nominated Haynsworth and Carswell to the Supreme Court seat once held by Brandeis and Frankfurter, that the President supported the bloody repression at Attica, that he has strongly backed the SST and ABM while hundreds of thousands of Americans go hungry every day, and that he has opposed a national day-care program, higher funds for elementary and secondary education, and an adequate, comprehensive, national health-care program? After all this, can it be possible for Mr. Himmelfarb to speak in terms of rewarding "friends" and punishing "enemies"?

DAVID M. SZONYI
Stanford University
Stanford, California

TO THE EDITOR OF COMMENTARY:

I am surprised that neither Nathan Glazer nor Milton Himmelfarb mentions the fact that this will be Nixon's last term as President if he is reelected. What assurance do we have that he will carry out his promises to the Jewish people about Israel? One has only to review Nixon's career to know that he has always been motivated by his own personal ambitions. . . . He has never been known for his advocacy of true social and moral justice. . . . Nixon needs the "Jewish vote" now, but McGovern will continue to need it for a long time to come. . . .

ROCHELLE INDELMAN
Forest Hills, New York

TO THE EDITOR OF COMMENTARY:

One might have preferred a more convinced advocate of McGovern than Nathan Glazer, yet his analysis of the Jewish stake in the election, which leads him . . . , perhaps even painfully, to his choice of McGovern, may be typical of the soul-searching decision of many American Jews.

Milton Himmelfarb asks us (as Nixon himself does in his "Southern strategy") to vote our fears, not our convictions. And the fears he justifies are very real—a gnawing concern over the survival of Israel and over the future of American Jews. A pragmatic Jewish self-interest, he suggests, has diminished our traditional anti-war and anti-racist feelings to intangibles of the moral conscience. Still, the self-aware Jew must feel uneasy fellow-traveling with Nixonite Southern Protestants and Catholic ethnics, the sum of whose politics is resistance to black "encroachments." Such a Jew will pinch his nostrils against the stench of corruption that keeps fizzing up out of Washington: Watergate, secret contributions, the grain deal, and so on. But can he grant four more years of life-and-death power to this anomalous Quaker who, at this heralded final stage of Vietnam pushbutton

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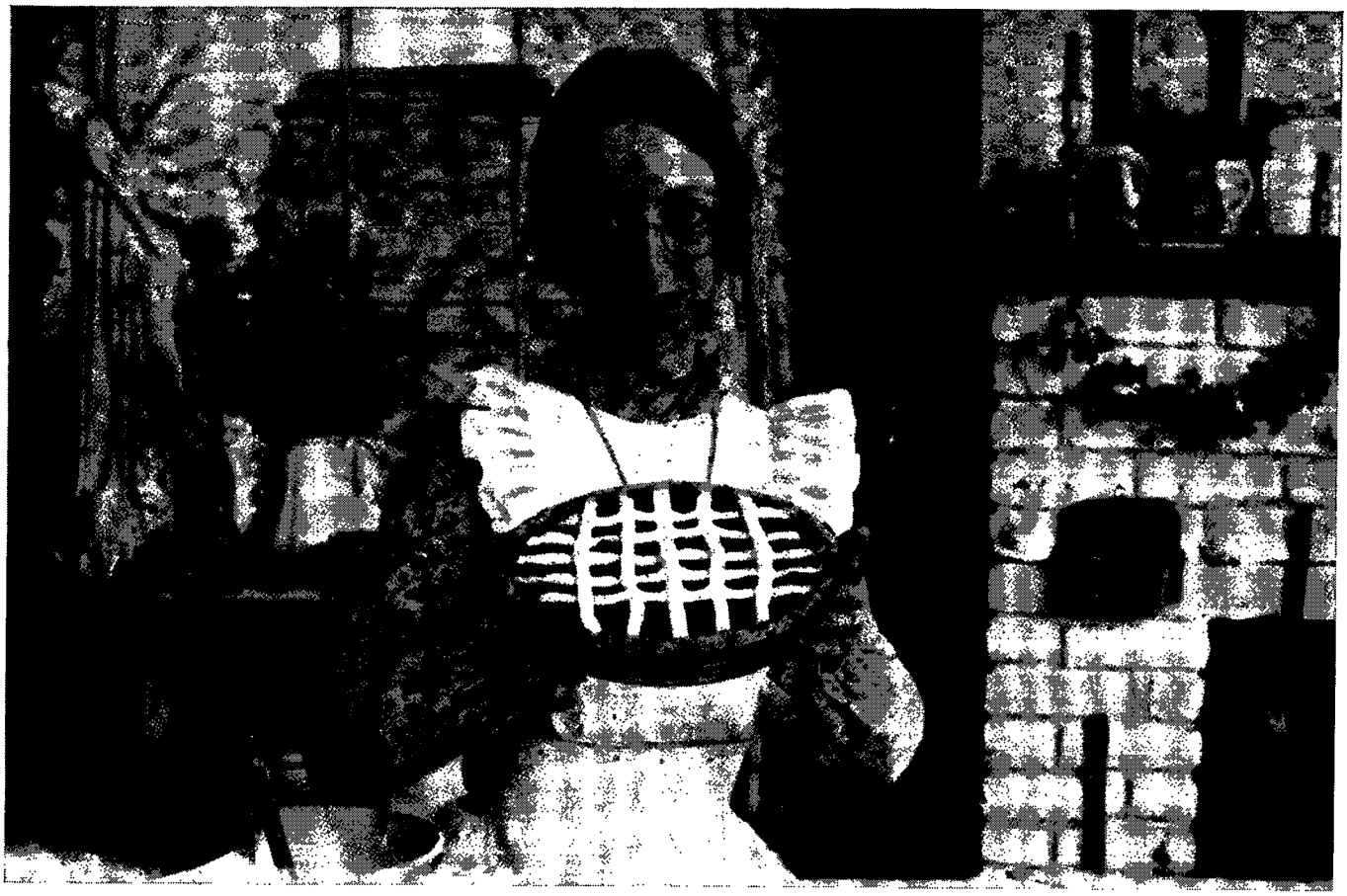

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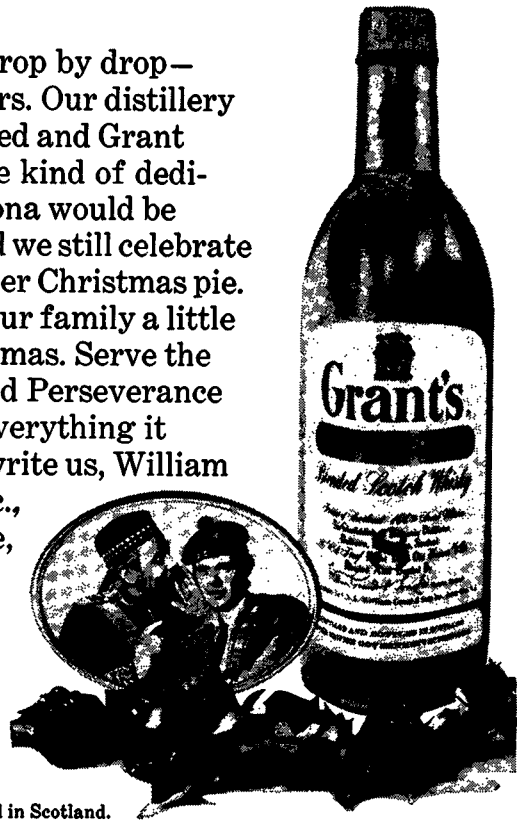

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bloodletting, boasts (threatens?) that he could flatten (atomize) North Vietnam in an afternoon? I vote with Mr. Glazer. . . .

The argument finally comes down to the fate of Jewish idealism, that "prophetic universalism" that has long been our boast. . . .

LOUIS GOLOMB
New Milford, New York

TO THE EDITOR OF COMMENTARY:

I deem it my duty to alert American Jewry to the geostrategic weakness of McGovern's position as a hawk on Israel but a dove on Vietnam. . . . The Jewish community in the U.S. . . . is not sufficiently sophisticated in grand strategy to see through McGovern's sanctimonious hocus-pocus, nor is it able to perceive the glaring inconsistency in his desire to support Israel but abandon Vietnam. . . . I have not only written articles and a book on the subject of geostrategy, which I define as the relation of foreign policy to strategic capabilities as affected by geography, but I have testified on the subject before many Congressional committees. . . . I am reliably informed that the geostrategic reasons for U.S. support of Israel are parallel to, if not identical with, the reasons for our support of the independence of South Vietnam, i.e., to protect strategic maritime choke points such as Suez and Malacca . . . and to defend the transoceanic balance of power essential to national security. . . . To illustrate my point: in May 1941, prior to Pearl Harbor, Franklin Roosevelt, anticipating U.S. participation in World War II, sent American military chiefs to London to coordinate strategy with the British, and it was agreed that Southeast Asia was geostrategically more important than the Middle East.

CHARLES A. WEIL
Westhampton Beach, Long Island

TO THE EDITOR OF COMMENTARY:

Milton Himmelfarb: Fantastic!

Nathan Glazer: Those who drift with the current often drown in it!

MICHAEL FRANKSTON
Cambridge, Massachusetts

Making War

TO THE EDITOR OF COMMENTARY:

In view of Alexander M. Bickel's astute analysis of the unconstitutional origins of the war in Vietnam ["The Constitution and the War," July], his myopia when it comes to President Nixon's personal responsibility for the official lawlessness of American policy is puzzling.

First of all, Mr. Bickel justifies Nixon's conduct by asserting that he was entitled to wage a *de facto* war he inherited even though that war was unconstitutional in its inception. Mr. Bickel does not explain the origins of this *de facto*-war doctrine, so we must assume he just invented it. And while its novelty alone is not grounds for condemnation, we can think of no justification, either authoritative or rational, for permitting a public official to carry forth unconstitutional policies instituted by a predecessor in office. No more than the executive has impunity to enforce unconstitutional legislation enacted by a parallel branch of government. Would anyone suggest that a school board has constitutional authority to continue to administer a segregated school system established by its predecessor?

Nor is Mr. Bickel's distinction between declaring and waging war a compelling one. Would he suggest that President Johnson (or President Kennedy) could constitutionally wage a war the day after he had unconstitutionally instituted it? Two days after? If the original lawbreaker could not claim such immunity from responsibility for his own conduct, neither may the successor in office.

But more importantly, Mr. Bickel blithely ignores President Nixon's own responsibility for launching (and waging) a new war against North Vietnam without Congressional authorization (and in the face of Congressional enactments forbidding it) by his acts of May 8.

The mining of Haiphong harbor and the blockade of North Vietnam announced on May 8 cannot be excused as merely the continuation of a *de facto* war which Nixon inherited. The act of blockade, as the Nixon administration is aware, is a well-recognized act in both international and national law which has specific legal implications and which creates special legal relationships. The official promulgation of a blockade gives the blockading nation certain rights vis-à-vis neutral third parties precisely because it signifies the existence of an official state of war.

These implications of blockade have been specifically recognized in our national law by the Supreme Court, which held in the famous *Prize Cases* growing out of the Civil War that Lincoln's blockade of Southern ports constituted an act of war. The Supreme Court then upheld, by a 5-4 margin, the legality of the blockade despite the absence of a Congressional declaration of war on the President's narrow powers of national self-defense to repel foreign invaders or states in insurrection.

It is impossible to justify the blockade of Haiphong harbor as a matter of national self-defense requiring immediate Presidential action. Aside from the patent absurdity of such a suggestion, the United States has renounced such unilateral initiatives by its ratification of the UN Charter, whose Articles 33 and 39 require signatories to consult with the Security Council and make other efforts at mediation and negotiation of disputes before taking actions which "are likely to endanger the maintenance of international peace." There can be no question that a blockade is within the latter category. It is precisely because a blockade is fraught with such danger that an intricate body of law has been developed on the subject. And since the UN Charter is as much a part of our domestic law as any other enactment of Congress adopted pursuant to constitutional process, Nixon's violation of that Charter is itself an illegal act.

Finally, President Nixon has not only carried on hostilities illegally and instituted a new stage of the war without Congressional authorization, but he has done these things in direct defiance of Congressional instructions to the contrary, and without the excuse of the Tonkin Gulf Resolution, which was formally repealed prior to Nixon's escalation of the war into North Vietnam in May.

Mr. Bickel is correct when he reports that President Nixon specifically repudiated the Mansfield Amendment to the Military Procurement Authorization Act of 1971, in which Congress declared it the official policy of the United States that the war in Southeast Asia be ended "at the earliest practicable date" and that a "prompt and orderly withdrawal" of American forces be undertaken. But Mr. Bickel does not explain the source of the President's authority to ignore and repudiate Congressional enactments. Indeed, Judge Dooling in the Federal

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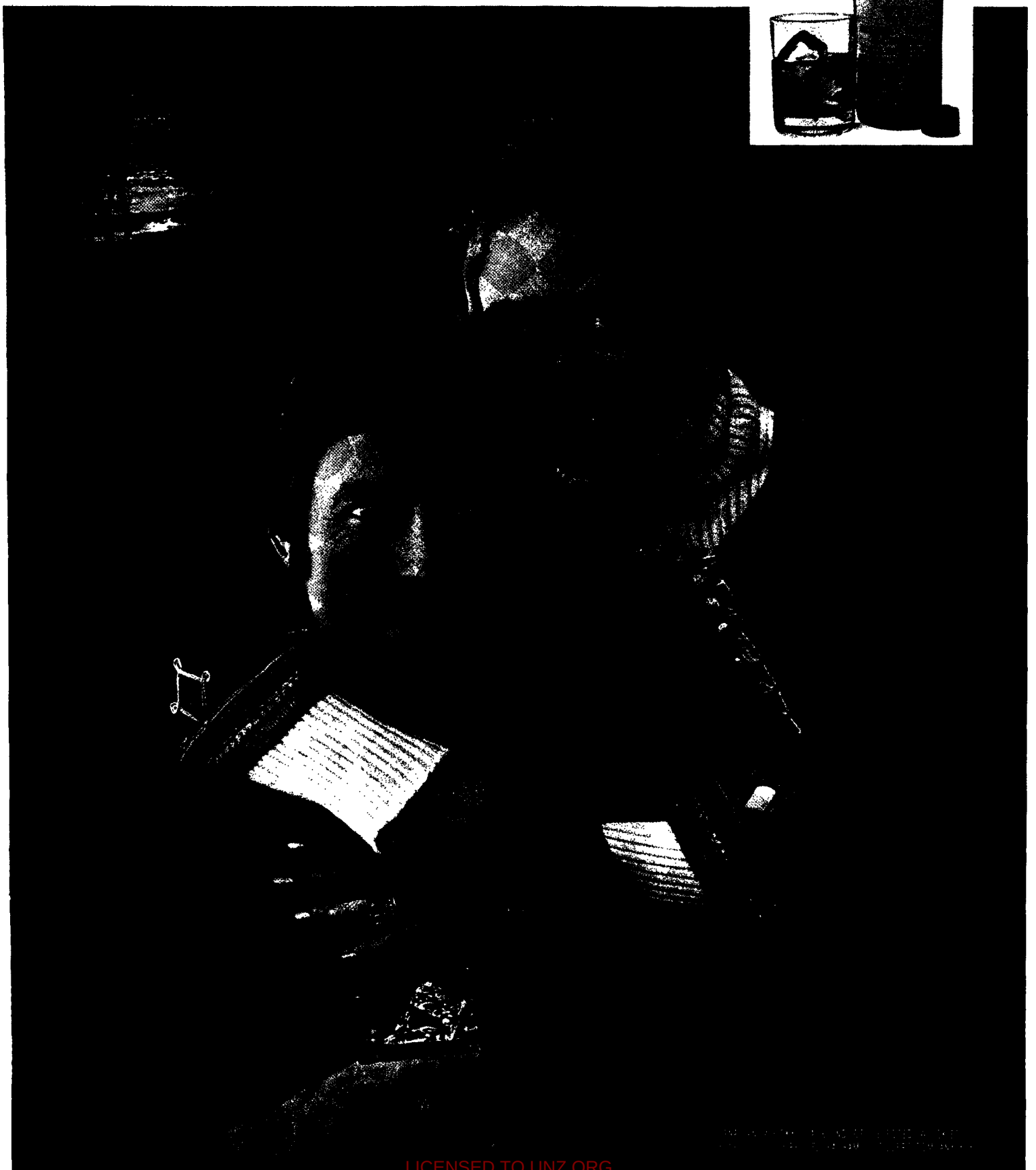

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District Court in Brooklyn observed recently that despite the President's disclaimer, the Mansfield Amendment "had binding force and effect on every officer of the government, no matter what their private judgment of that policy, and illegalized the pursuit of an inconsistent executive or administrative policy. No executive statement denying efficacy to the legislation would have either validity or effect" (*Da Costa* v. *Nixon*, Civ. No. 72 C 207).

We would thus suggest (without even considering other charges against the President such as violation of the Geneva Convention and Nuremberg Agreements) that Mr. Bickel is on less than sound ground when he brushes aside the move to impeach President Nixon as the work of the "egregious Bella Abzug."

Indeed, Mr. Bickel's treatment of the impeachment possibility undercuts his conclusion that "the answer lies with Congress." Congress can legislate policy restrictions on the President with ever-increasing specificity, but if he repudiates them, as he has already repudiated the Mansfield Amendment, what recourse does the Congress have? Can it really cut off *all* funds available to the President for the waging of the Vietnam war?

Pragmatic considerations aside, there are very sound *legal* reasons for the impeachment of President Nixon, and Mr. Bickel's apologia for him is inconsistent with the otherwise high standard of scholarship demonstrated in his article.

FRANK ASKIN
PAUL L. TRACTENBERG
RONALD L. DAVISON
Rutgers University School of Law
Newark, New Jersey

TO THE EDITOR OF COMMENTARY:

Alexander M. Bickel knows, as does any lawyer, that consent may take several forms. It may be expressed or it may be implied from action, or even at times from inaction. His thesis that the war in Vietnam is being conducted without the approval of Congress, as required by the Constitution, breaks on the fact of the successive appropriations by Congress of the money needed to carry on the war. To circumnavigate this rock he says: "Far from ratifying anything, Congress, at least in part, appropriated and continues to appropriate under the misapprehension that it is in principle obligated to extend general support, and that in any event it is assuming no general responsibility by extending support."

Just what evidence does Mr. Bickel have . . . to sustain the assertion that Congress was acting in "misapprehension" and that it was assuming "no general responsibility"? When an action is supported in the one way that makes this action possible, it can hardly be said that providing the support carries no responsibility for the consequences. And what about the other "part" Mr. Bickel mentions, where, presumably, Congress is not under misapprehension and for which it *is* assuming responsibility? How large is that part?

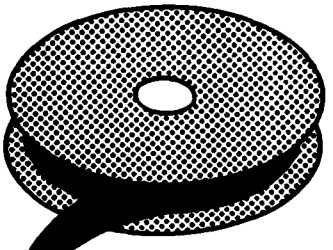
Any judge will attest to the fact that it is not possible to ascertain the motives of legislators in the enactment of any piece of legislation. Those who are in the end united in a legislative majority are moved by diverse considerations beyond the reach of the most avid research. As everywhere in the law, we must take the intent of a statute from what it patently does. The simple, unquestionable truth remains that there could and would be no continuing war in Vietnam if Congress had not voted the money.

HERMAN A. GRAY
Pine Plains, New York

TO THE EDITOR OF COMMENTARY:

The thesis which Alexander M. Bickel argues in so masterly and brilliant a fashion in the July issue can be documented to an extent which places its correctness beyond the point of controversy. Thus an article of mine published in the August 1970 issue of the New Jersey *State Bar Journal*, "The Constitution, the President and War," states that:

> Within a few days after the Constitutional Convention opened, a resolution proposed by the Virginia delegation (which included Washington and Madison), was adopted "by a unanimous vote, without debate" that "the powers of the National Legislature" should be the



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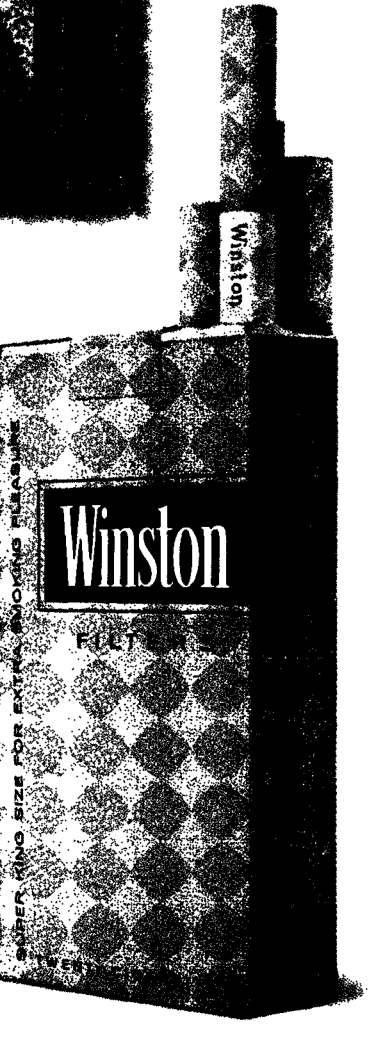

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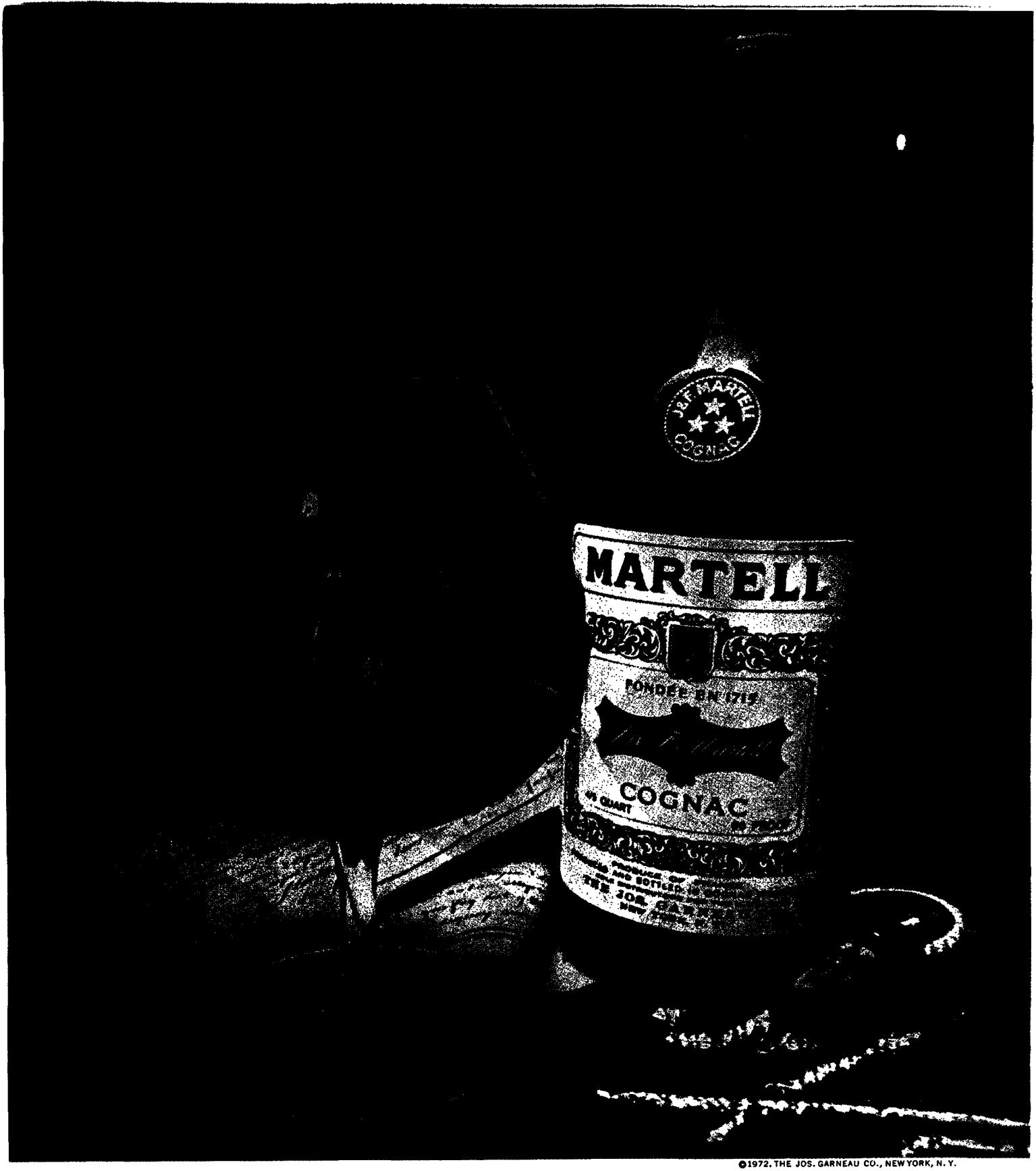

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same as "the Legislative rights vested in the Congress by [the Articles of] Confederation" which gave that Congress "the sole and exclusive power of determining on peace and war." . . .

Furthermore, there are four United States Supreme Court cases which explicitly recognize "The President's lack of constitutional authority 'to initiate or declare a war'": the *Prize Cases,* 67 U.S. 459; *Myers* v. *United States,* 272 U.S. 106; *Ex Parte Richard Quirin,* 317 U.S. 1; and the concurring opinion of Justice Jackson in *Youngstown Sheet and Tube Co.* v. *Sawyer,* 343 U.S. 579. . . .

Notwithstanding the validity of Mr. Bickel's thesis and the excellence of his supporting argument, I submit that he is mistaken in his view that "the Court has been wise to exercise its discretion so as to avoid passing on the constitutionality of the war.". . . I contend that the Supreme Court has no such discretion; for the Court is sworn to uphold the Constitution . . . and a failure on the Court's part to apply a provision of the Constitution in any case is a failure on its part to perform its constitutional function. To contend that the Supreme Court can refuse in any case to perform its constitutional function because the same result which its functioning would produce could be accomplished by appropriate action of Congress, is to contend that the Court can in effect look to the legislative branch of the federal government to accomplish the purpose for whose accomplishment the Court was created as a separate and independent branch of the government. . . .

When a citizen's property rights are put in jeopardy under an unconstitutional Act of Congress, the Supreme Court unfailingly affords him relief by nullifying the act of Congress. Why should the Court not afford a citizen relief in the case of an unconstitutional act of the executive which puts in jeopardy his right to his "life and liberty" and why is that Court not equally bound to pass upon the constitutionality of such a challenged executive act? Are the requirements of reason and justice met by calling such a case "political"? Is the highest duty of the Court to uphold the Constitution fulfilled by the magic invocation of the word "political"? Or is it a judicial resurrection and acceptance of the ancient doctrine that "the King can do no wrong"?

WALTER J. BILDER
Newark, New Jersey

TO THE EDITOR OF COMMENTARY:

I was very impressed with "The Constitution and the War." . . . We should be careful whom we elect to Congress, for, as Alexander M. Bickel so aptly points out, Congress has the right to declare war, though in recent years we have elected men who do not seem to be aware of their constitutional powers. Congress also . . . could have refused all along to vote the necessary funds to carry on the war. . . . Now, many years later, and after many lives have been lost, we are waking up to what is written in the Constitution. . . .

JESSIE S. BLOOM
Seattle, Washington

TO THE EDITOR OF COMMENTARY:

. . . There can hardly be a quarrel with Alexander M. Bickel's finding that our war in Indochina is unconstitutional. . . . But I don't think we can accept his conclusion that "the answer lies with Congress," nor can I concur in his praise for the Supreme Court's "discretion" in avoiding the issue of the constitutionality of the war, for that avoidance is in itself unconstitutional. . . . Why should the Court not allow itself to be drawn into directing the President to stop the war? Is Mr. Bickel afraid that Congress would not dare to back up the Court by impeaching the President if he ventured to defy its decision? If the administration is conducting an unconstitutional war, then we are living in a constitutional crisis, are we not? . . .

It is too late now, since there is no chance that a Court which counts four Nixon appointees among its members would decide against the administration. The Court has failed us and will continue to do so. The same is true of Congress. . . . Therefore, I submit, a different approach should be tried. The Presidential candidates should be confronted with the demand that they pledge themselves, if elected, to share with an elective council of coequal advisers all decision-making that might involve the nation in war. This council might be constituted as a permanent Congressional committee, a quorum of which would have to be available at all times. The obligatory cooperation between the President and the council would go far in precluding the secrecy and deceit of the kind successive administrations have practiced with disastrous consequences. More than that, it would be a decisive step toward "a foreign and war policy of the United States which it is for Congress to set," as Mr. Bickel has stated with commendable clarity. A strong point in favor of the proposal lies in the fact that it does not call for new laws or a constitutional amendment since it can be consummated on the President's initiative and authority (leaving the settlement of the legal issues for a later time). . . .

Against this "Project Share," which I have briefly outlined above, a number of objections have been raised. There is fear that it might weaken our deterrent posture, or render impossible the instantaneous reaction nuclear emergency situations would require, or that it would "cramp the President's style." But the decisions of a council have a good chance of being more rational than those of a single individual who is subject not only to general human fallibility but also to the temptations inherent in the possession of great power; and to assume that a council would necessarily be irresponsibly "soft," is an unwarranted assumption. . . .

WALTHER MARSEILLE
Munich, West Germany

ALEXANDER M. BICKEL writes:

Messrs. Askin, Tractenberg, and Davison misunderstood my discussion of President Nixon's position. A war is a fact, constitutional or not, and Mr. Nixon found one in progress. Even if he had believed that the war was begun unconstitutionally, Mr. Nixon would have had to decide for himself, in the absence of a mandatory legislative policy, how best to conclude it, in accordance with his view of the present national interest—just as a school board running a segregated school system was supposed to decide for itself, in the absence of a judicial directive, how best, and at what rate, to desegregate it. But the unconstitutionality of the war is a matter of judgment, and Mr. Nixon, I pointed out, was and is entitled to his own. An error of judgment, even of constitutional judgment, and even an error as grave and as plain as I strongly believe this one to be, is no ground for impeachment.

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The charge that Mr. Nixon started a new unconstitutional war when he blockaded Haiphong rests on nothing more than word-play. Everything Mr. Nixon has done in Indochina except withdrawing troops has been an act of war, and every action different from last week's has been a new war. Mr. Nixon has done nothing that a commander-in-chief may not do once he is in a war. And Congress, as I pointed out, has not exerted its authority to stop him. The Mansfield Resolution, whatever Judge Dooling may think of it, unfortunately failed to use mandatory language, and quite deliberately so. If the President should undertake to repudiate a valid legislative mandate passed over his veto, as it probably would have to be, we might face the problem that Messrs. Askin, Tractenberg, and Davison pose. We do not face it now. No such thing has happened.

Nor, however, has Congress in my judgment done anything to render this war constitutional. Appropriations will not do. The Constitution does not say that the President shall declare war subject to Congressional veto by failure to appropriate. It says Congress shall declare war, and that I think must mean that Congress, whether by a formal declaration or other legislation, must expressly and explicitly authorize the initiation of hostilities, save only in the limited conditions in which the President may, under the Constitution, act on his own independent authority. My argument is not concerned with the motives of Congress. Continued appropriations are the result in part, as I said, of the misapprehension, which many Congressmen evidently share with Mr. Nixon, that this war, however tragic and ill-advised, is constitutional. They are the result finally of a perfectly correct judgment that to appropriate money for an ongoing war is not to ratify it, declare it valid or good, or assume constitutional responsibility for it. The way Congress assumes responsibility for war is by declaring it, or otherwise authorizing it.

The Supreme Court has often through its history exercised discretion to refuse adjudication of a constitutional issue. Messrs. Bilder and Marseille may disagree with the reasons why I thought exercise of this discretion in this instance has been wise, but they cannot really deny its legitimacy. I will not rehearse again the reasons I gave, but they did not include a fear that the President would defy the Court. I am skeptical of Dr. Marseille's suggestion for an extra-constitutional arrangement, and prefer the legislative structure that the Javits bill would set up, using existing institutions, as I believe we generally should.

Harvard

TO THE EDITOR OF COMMENTARY:

With the best of intentions, I am sure, T. R. Marmor ["Banfield's 'Heresy,'" July] is unjust to Harvard University in suggesting that I left because I was being persecuted. The fact is that to the best of my recollection no student was ever rude to me, although many certainly disliked what they thought I stood for. As for my faculty colleagues, I never had a sense of being disapproved by them, much less of being interfered with. And I never had the slightest doubt that the administration would protect my rights if anyone were to infringe them.

I am not contending that Harvard was (or is) always perfectly correct in such matters: only that it was so in my case and that I left for reasons having nothing whatever to do with opinions, mine or anyone else's.

EDWARD C. BANFIELD
The Fels Center of Government
University of Pennsylvania
Philadelphia, Pennsylvania

Social Policy

TO THE EDITOR OF COMMENTARY:

I was very surprised by Norman Podhoretz's "A Call to Dubious Battle" [July] directed against the "group around *Social Policy*" and their presumed influence on the legislation of the 60's. After all, Daniel P. Moynihan was Assistant Secretary of Labor in the Democratic administration (and Nathan Glazer was a major consultant to HUD). No one on the Editorial Board of *Social Policy* had anything like this kind of influence. Moreover, I and a good number of people on the Editorial Board have always been deeply critical of many of the anti-poverty assumptions: we were among the first to criticize the entire compensatory-education approach which characterized Head Start and most of the other educational programs; we were deeply critical of the whole notion of providing poor-people training without the prior creation of jobs; and a good number of the radical members of our Board eschewed entirely the whole anti-poverty program on the grounds that nothing serious could be achieved under capitalism.

Others of us in the 60's, like George Wiley and Frances Piven, helped to organize the welfare-rights movement which led to an improved income for those poor who obtained welfare benefits; and the notion of a guaranteed income emanates not from Nixon and Moynihan but from the National Welfare Rights Organization and, incidentally, from some of the *Social Policy* intellectuals who led the way in developing this demand in the 60's.

A few of us did make some legislative contributions in the 60's, such as the programs for the use of paraprofessionals, some 500,000 of whom have obtained jobs in health, education, and community work in the United States. (Most of the data on paraprofessionals indicate that they are highly effective and well accepted; see Alan Gartner, *The Paraprofessional and His Performance,* Praeger, 1972.) This job focus was the major forerunner of the powerful public-service employment thrust of the 70's which may have much more impact on redistributing services and income and moving toward full employment than Nixon's welfare proposals, with their forced-work provisions and call for training without job creation.

But we welcome Mr. Podhoretz's desire to take a good look at the 60's to see what really happened: what happened, to mention just two examples, is that the reading scores of poor children *failed* to improve and large numbers of people did *not* move out of poverty (although some did). There are many reasons for this, including the fact that many of the programs, as Frances Piven has noted, were used for political purposes; there were huge professional "rip-offs," or gains, for the various service providers; many of the programs were ill-conceived, there was much learning that had to occur before the problems could be dealt with; and finally it is questionable how far these programs could go without a basic reorganization of the society. But the recognition of the need for this reorganization has come out of the 60's and many of us who were developing pro-

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grams and critiques of other programs were concerned with developing this new consciousness, while at the same time winning benefits for poor people, increasing the democratization of institutions, and building a new majority that is strengthening groups like youth, women, blacks, minorities, etc. This new majority, whose new politics are now democratizing the Democratic party, is an outgrowth of the 60's.

Moreover, the 60's were not in fact the failure Mr. Podhoretz would have us believe. Important new rights were recognized for young people, welfare recipients, blacks, women, consumers, homosexuals, prisoners, patients—the right to participate in university decisions; the right not to be hungry; personal rights such as abortion and birth control; the right to nonpolluted air; the right to a guaranteed income; and many, many more. Even more important, the poor began to demand popular control over their institutions, neighborhoods, and government, and in this . . . they showed the way to other groups in the society—women, youth, and so on. The new assault is clearly directed at the beachheads that were won in the 60's and still persist in the 70's—in the women's movement, in the new demand for the right to a guaranteed job, and in the coming National Health Insurance program. That much has been accomplished is what really dismays the "assaulters on equality"—they are dismayed by the successes and not by the failures of the 60's.

But let us look for a moment at the Office of Economic Opportunity which has been the main target of the critics. The OEO was, in fact, the leading force in developing the legal rights of the poor. The long-term effect, apart from the many direct benefits to the poor, has been the emergence of a great variety of legal class actions eventuating in highly significant court decisions like *Serrano*, *Rodriguez*, and *Griggs*, as well as in many other cases directed toward the rights and entitlements of the educationally handicapped, the mentally ill, etc.

In particular, the OEO played a major role in the expansion of family-planning services for the poor, programs generally recognized as highly effective. The OEO also introduced the concept of maximum-feasibility participation—a concept which, while watered down in many cases, has had wide applicability in Model-Cities programs, educational programs, and in the effective community-action aspect of Head Start. Its ethos has expanded into all kinds of institutions (including political parties), increasing their democratization and sensitizing them to people's demands.

In essence, the programs of the 60's which were concerned with repairing individuals to fit institutions were unsuccessful; while those programs that changed institutions and structures to be more consistent with the needs and style of the poor were relatively effective and have become institutionalized in American life. Moreover, the long-term indirect effects may be greater than is generally recognized.

Mr. Podhoretz also gets on the bandwagon of supporting income for the poor in contrast to services. But if a good portion of the future income of the poor is to derive from public jobs, and if these jobs are to involve the providing of services, it will not be possible to make the simplistic separation of income and service programs that is becoming so popular. Furthermore, as S. M. Miller pointed out long ago, services are part of the "new income" and are badly needed by the poor as well as by everyone else in our society.

When it comes to the Family Assistance Plan the shallowness of Mr. Podhoretz's diatribe becomes quite clear. With no evidence whatsoever as to what the program might actually be expected to achieve, he describes it as a revolutionary program which will produce a radical redistribution of income. He doesn't seem to apply to himself the same canons of evidence for which he does such dubious battle. Indeed, he consistently chooses to ignore his own very good advice about rigorous thought and documentation in social analysis and planning. . . .

FRANK RIESSMAN
Editor, *Social Policy*
New York City

TO THE EDITOR OF COMMENTARY:

I must be part of that social-policy community deplored by Norman Podhoretz since I am a member of the Editorial Board of *Social Policy* magazine. Nevertheless, I record one point of

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agreement between us. It would indeed be pleasant if intellectuals writing in COMMENTARY, *Social Policy,* and elsewhere were courteous to each other. But the history of fratricide among scribblers argues against the imminence of such a revolution in manners.

Mr. Podhoretz's weightiest criticisms assert the failure of "Great-Society" service programs and the desirability of "reflection" upon the meaning of the failure by the advocates of such programs. Whether or not this failure is universal is an argument for another occasion. I stress here a different point, that service strategies are not the only tools of social involvement. I and other members of the social-policy community have long preferred three other mechanisms of egalitarian change: direct creation of jobs via public-service employment; redistribution of income and wealth through a reshaped structure of inheritance and income taxation as well as an appropriate negative-income tax; and redistribution of political power through, among other devices, expansion of legal services, one "Great-Society" program which, incidentally, has not failed. I note parenthetically that it is perfectly possible at once to favor egalitarian change and oppose the Nixon Family Assistance Plan. FAP reduces benefit levels in the more generous states. Worse still, its work and training requirements seem better calculated to control and harass the poor than to improve their condition. No need to marvel at the President's magnanimity. The poor man deserves more credit for consistency than Mr. Podhoretz grants him. As ever, he defends the strong and cherishes the rich.

The social-policy community, in short, contains a varied assortment of people and opinions in addition to those Mr. Podhoretz chooses to discuss. . . .

ROBERT LEKACHMAN
Department of Economics
State University of New York
Stony Brook, New York

TO THE EDITOR OF COMMENTARY:

As a member of the Editorial Board of *Social Policy,* I want to reply to two aspects of Norman Podhoretz's ill-tempered attack.

There is a fundamental difference between criticism of specific social-policy programs, and abandonment of the spirit and commitment which gave rise to them. The pages of *Social Policy* are full of criticisms of programs which were hastily drawn, inadequately monitored, and guided by too simple a view of the problem to be attacked. My own work has consistently taken this view of the manpower programs of the 1960's. But to announce the "limits of social policy" (Nathan Glazer), or the inevitability of genetically and racially determined hierarchies of merit (R. J. Herrnstein), or the mischief which inevitably will result when the poor are given the right to control programs ostensibly for their benefit (Daniel P. Moynihan) is to counsel despair and abandonment of the struggle, under the guise of "reflection." This spirit is what links the targets of Professor Ryan's attack; regrettably, it is a spirit which has found increasing expression and support in the pages of COMMENTARY.

Mr. Podhoretz cites figures from the recent Brookings study, *Setting National Priorities: The 1973 Budget* to argue that the federal budget is overloaded with "Great-Society" programs. But the $35.7 billion figure to which he refers must be compared with the $75.5 billion figure for "older income-maintenance programs," the intellectual basis for which was laid in the first thirty years of this century. And the $35.7 billion includes greatly expanded support for health and education, and other social commitments with long intellectual and political pedigrees. When these are separated out, the funds which finance "ideas conceived by professionals like the group around *Social Policy* magazine" shrink almost out of sight.

At the same time, between 1963 and 1973, military spending rose by a shade less than 50 per cent, and successive tax cuts reduced funds available for new social programs; tax reduction is the real name for the social policies of the 1960's. The Brookings study estimates that if personal and corporate taxes had been kept at 1963 levels, receipts from these two sources alone would have totalled $181.6 billion, or $34.6 billion more than the actual estimate of $147.0 billion. . . .

SUMNER M. ROSEN
Institute of Public Administration
New York City

TO THE EDITOR OF COMMENTARY:

. . . Norman Podhoretz says "since 1963, federal spending on the new poverty programs which came in with the 'Great Society' has risen from $1.7 billion to $35.7 billion. . . . This $35.7 billion of poverty-program money mainly goes not into the pockets of the poor but into services designed to help the poor in ways other than actually supplementing whatever income they may already command." The source given for this statement is the report of the Brookings Institution, *Setting National Priorities: The 1973 Budget.* . . .

But let us look more carefully at the evidence. Here's what it says on page 11 of *Setting National Priorities,* where the $35.7 billion figure first appears:

> Of this total, some $20 billion is accounted for by programs that provide goods or services directly to people, principally the poor or the aged; housing subsidies to low- and moderate-income families; Medicare (for the aged) and Medicaid (for the poor); food stamps and school lunches; loans and scholarships for higher education. . . . The remaining $16 billion of Great Society programs provide . . . grants for establishing and operating community mental health centers; grants of various kinds to encourage better urban planning and rehabilitation of central cities; programs to increase the number of trained medical and paramedical personnel, and to develop improved methods of providing medical care; grants and loans to promote economic development in depressed areas; grants to communities and nonprofit groups and subsidies to industry to provide a wider range of manpower-training services; and many other similarly complex programs.

. . . Isn't Mr. Podhoretz guilty of the same failure "to assess dispassionately" which he and T. R. Marmor ["Banfield's 'Heresy,'" July] are calling to our attention? . . .

I also resent the following statement: "The results, as almost everyone now agrees, have been negligible"; with an assist from the New York *Times* Mr. Podhoretz attributes this judgment to the Brookings Institution, "a principal refuge for architects of the Great Society." After reading the above, more detailed, breakdown of the $35.7 billion, can Mr. Podhoretz really believe that the results have been negligible? . . . Can he suggest that $35.7 billion buys us *nothing*? . . . I suggest

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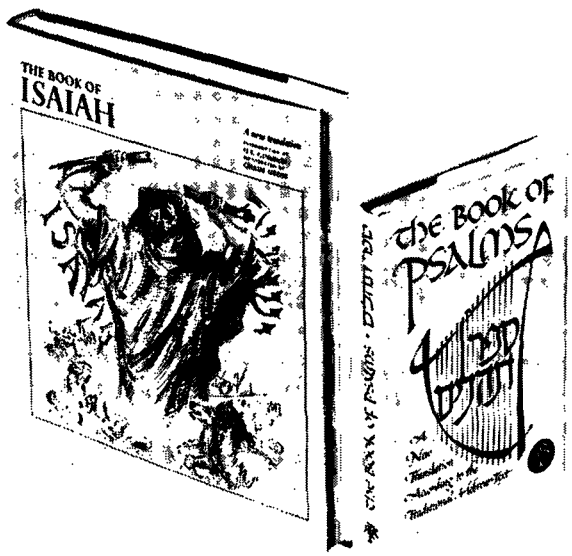

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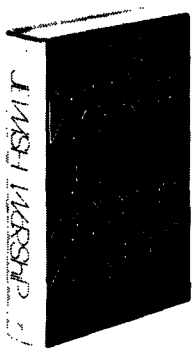

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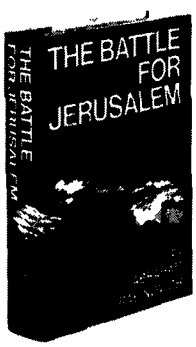

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that the report is not an "epitaph" but a set of ideas for improving the capacity of the federal government to improve human welfare.

BENJAMIN CHINITZ
Department of Urban Studies
Brown University
Providence, Rhode Island

TO THE EDITOR OF COMMENTARY:

Bravo to Norman Podhoretz for his revelation of the huge sums of money that have been spent on new poverty programs. . . . It is ironic that so little of these public funds actually reach the poor or help them to rise out of poverty. Some blame for this must be given the Nixon administration for not having accepted the concept of the federal government as the employer of last resort, but we must not overlook the fact that there are social workers, so-called community leaders, and government bureaucrats who have a vested interest in the continuation of poverty, and this is true of many employers as well. . . .

WALTER R. STOREY
Philadelphia, Pennsylvania

NORMAN PODHORETZ writes:

In calling for "reflection" on the failures of the 60's, I was saying that the ability to do anything at all, in this field or any other, depends on the capacity to recognize the limits of one's knowledge and power. To Mr. Rosen such a call is tantamount to a counsel of despair. Yet Daniel P. Moynihan, for example, far from offering any such counsel, has been pressing for the establishment of a guaranteed annual income in this country against the opposition of Messrs. Lekachman and Riessman, among others, within the social-policy community. They tell us they are opposed to FAP because it contains certain features they dislike. FAP is a very complicated plan and it has been revised so many times by now that arguing about its details is impossible in short compass. Nevertheless I think it can be asserted that of the two reasons Mr. Lekachman gives for being against it, the first (that it would "reduce benefit levels in the more generous states") is wrong and the second (that the damage which would be done to the poor by its work and training requirements would outweigh the benefits) is callous. For the fact is that FAP would provide a guaranteed income payment which is higher than the welfare payments in about half the states of the Union, and while it would not in itself raise the level of payments in the other half, neither would it do anything to lower them. As to the work and training requirements, however "repressive" they may be—and that is itself open to serious question—do they really justify opposition, especially by self-proclaimed egalitarians, to a measure that would give benefits to some fifteen million of the working poor—dirt farmers, migrant workers, and the like—who currently get nothing?

The only other serious point raised by these letters is whether the "Great Society" programs of the 60's have indeed failed. I had, I admit, thought that almost everyone agreed as to the *fact* that the "war on poverty" was a failure and that the only disagreements concerned the assignment of blame or responsibility. Messrs. Chinitz, Lekachman, and Riessman have convinced me that I was wrong. Thus although Mr. Riessman complains that the group around *Social Policy* had little influence on the course of events in the 60's, he goes on to credit that group with an astonishing number of achievements, sounding (by no accident at all, I should say) exactly like a politician celebrating his record in office, and suddenly painting a rather rosy picture of that same American society which the social-policy community has so often excoriated as rotten and corrupt. Well, that is at least a gain of sorts. My own view, however, continues to be that the results of the programs making up the "war on poverty" have been negligible when measured (*pace* Mr. Rosen) both against the money and energy spent on them and against the promises they entailed. The approach Mr. Lekachman recommends may indeed be a better one than the services-oriented approach of the 60's, but his tone is just a little too confident to persuade me that he has assimilated what I take to be the main lesson of the recent past in this area: namely, that we do not know as much as we think we do about how to deal with certain social problems, and that our failures are a consequence less of a deficiency of will than of a deficiency of knowledge, understanding, and intellectual humility.

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About Equality

Irving Kristol

THERE would appear to be little doubt that the matter of equality has become, in these past two decades, a major political and ideological issue. The late Hugh Gaitskell proclaimed flatly that "socialism is about equality," and though this bold redefinition of the purpose of socialism must have caused Karl Marx to spin in his grave—he thought egalitarianism a vulgar, philistine notion and had only contemptuous things to say about it—nevertheless most socialist politicians now echo Mr. Gaitskell in a quite routine way. And not only socialist politicians: in the United States today, one might fairly conclude from the political debates now going on that capitalism, too, is "about equality," and will stand or fall with its success in satisfying the egalitarian impulse. To cap it all, a distinguished Harvard professor, John Rawls, recently published a serious, massive, and widely-acclaimed work in political philosophy whose argument is that a social order is just and legitimate *only* to the degree that it is directed to the redress of inequality. To the best of my knowledge, no serious political philosopher ever offered such a proposition before. It is a proposition, after all, that peremptorily casts a pall of illegitimacy over the entire political history of the human race—that implicitly indicts Jerusalem and Athens and Rome and Elizabethan England, all of whom thought *in*equality was necessary to achieve a particular ideal of human excellence, both individual and collective. Yet most of the controversy about Professor Rawls's extraordinary thesis has revolved around the question of whether he has demonstrated it with sufficient analytical meticulousness. The thesis itself is not considered controversial.

One would think, then, that with so much discussion "about equality," there would be little vagueness as to what equality itself is about—what one means by "equality." Yet this is not at all the case. I think I can best illustrate this point by recounting a couple of my editorial experiences at the journal, the *Public Interest*, with which I am associated.

IRVING KRISTOL is Henry Luce Professor of Urban Values at New York University and the author of *On the Democratic Idea in America*. Mr. Kristol read an earlier version of "About Equality" at a recent meeting of the Institute for Humane Studies in Gstaad, Switzerland.

It is clear that some Americans are profoundly and sincerely agitated by the existing distribution of income in this country, and these same Americans—they are mostly professors, of course—are constantly insisting that a more equal distribution of income is a matter of considerable urgency. Having myself no strong prior opinion as to the "proper" shape of an income-distribution curve in such a country as the United States, I have written to several of these professors asking them to compose an article that would describe a proper redistribution of American income. In other words, in the knowledge that they are discontented with our present income distribution, and taking them at their word that when they demand "more equality" they are not talking about an absolute leveling of all incomes, I invited them to give our readers a picture of what a "fair" distribution of income would be like.

I have never been able to get that article, and I have come to the conclusion that I never shall get it. In two cases, I was promised such an analysis, but it was never written. In the other cases, no one was able to find the time to devote to it. Despite all the talk "about equality," no one seems willing to commit himself to a precise definition from which statesmen and social critics can take their bearings.

As with economists, so with sociologists. Here, instead of income distribution, the controversial issue is social stratification—i.e., the "proper" degree of intergenerational social mobility. The majority of American sociologists seem persuaded that the American democracy has an insufficient degree of such mobility, and it seemed reasonable to me that some of them—or at least one of them!—could specify what degree would be appropriate. None of them, I am sure, envisages a society that is utterly mobile—in which *all* the sons and daughters of the middle and upper classes end up in the very lowest social stratum, where they can live in anticipation of *their* sons and daughters rising again toward the top—and then of their grandsons and granddaughters moving downward once again! On the other hand, there is much evident dissatisfaction with what social mobility we do have. So why not find out what pattern of social mobility would be "fair" and "just" and "democratic"?

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I regret to report that one will not find this out by consulting any issue of the *Public Interest*. I further regret to report that nowhere in our voluminous sociological literature will one find any such depiction of the ideally mobile society. Our liberal sociologists, like our liberal economists, are eloquent indeed in articulating their social discontents, but they are also bewilderingly modest in articulating their social goals.

Now, what is one to infer from this experience? One could, of course, simply dismiss the whole thing as but another instance of the intellectual irresponsibility of our intellectuals. That such irresponsibility exists seems clear enough—but *why* it exists is not clear at all. I do not believe that our intellectuals and scholars are genetically destined to be willfully or mischievously irresponsible. They are, I should say, no more perverse than the rest of mankind, and if they act perversely there must be a reason—even if they themselves cannot offer us a reason.

I, for one, am persuaded that though those people talk most earnestly about equality, it is not really equality that interests them. Indeed, it does not seem to me that equality *per se* is much of an issue for anyone. Rather, it is a surrogate for all sorts of other issues—some of them of the highest importance; these involve nothing less than our conception of what constitutes a just and legitimate society, a temporal order of things that somehow "makes sense" and seems "right."

A JUST and legitimate society, according to Aristotle, is one in which inequalities—of property, or station, or power—are generally perceived by the citizenry as necessary for the common good. I do not see that this definition has ever been improved on, though generations of political philosophers have found it unsatisfactory and have offered alternative definitions. In most cases, the source of this dissatisfaction has been what I would call the "liberal" character of the definition—i.e., it makes room for many different and even incompatible kinds of just and legitimate societies. In some of these societies, large inequalities are accepted as a necessary evil, whereas in others they are celebrated as the source of positive excellence. The question that this definition leaves open is the relation between a particular just and legitimate society and the "best" society. Aristotle, as we know, had his own view of the "best" society—he called it a "mixed regime," in which the monarchical, aristocratic, and democratic principles were all coherently intermingled. But he recognized that his own view of the "best" regime was of a primarily speculative nature—that is to say, a view always worth holding in mind but usually not relevant to the contingent circumstances (the "historical" circumstances, we should say) within which actual statesmen have to operate.

Later generations found it more difficult to preserve this kind of philosophic detachment from politics. The influence of Christianity, with its messianic promises, made the distinction between "the best" and "the legitimate" ever harder to preserve against those who insisted that *only* the best regime was legitimate. (This, incidentally, is an assumption that Professor Rawls makes as a matter of course.) The Church tried—as an existing and imperfect institution it had to try—to maintain this distinction, but it could only do so by appearing somewhat less Christian than it had promised to be. When the messianic impulse was secularized in early modernity, and science and reason and technology took over the promise of redemptive power—of transforming this dismal world into the wonderful place it "ought" to be—that same difficulty persisted. Like the Church, all the political regimes of modernity have had to preserve their legitimacy either by claiming an ideal character which in obvious truth they did not possess, or by making what were taken to be "damaging admissions" as to their inability to transform the real into the ideal.

The only corrective to this shadow of illegitimacy that has hovered threateningly over the politics of Western civilization for nearly two millennia now was the "common sense" of the majority of the population, which had an intimate and enduring relation to mundane realities that was relatively immune to speculative enthusiasm. This relative immunity was immensely strengthened by the widespread belief in an afterlife—a realm in which, indeed, whatever existed would be utterly perfect. I think it possible to suggest that the decline of the belief in personal immortality has been the most important *political* fact of the last hundred years—nothing else has so profoundly affected the way in which the masses of people experience their worldly condition. But even today, the masses of people tend to be more "reasonable," as I would put it, in their political judgments and political expectations than are our intellectuals. The trouble is that our society is breeding more and more "intellectuals" and fewer common men and women.

I use quotation marks around the term "intellectuals" because this category has, in recent decades, acquired a significantly new complexion. The enormous expansion in higher education, and the enormous increase in the college-educated, means that we now have a large class of people in our Western societies who, though lacking intellectual distinction (and frequently lacking even intellectual competence), nevertheless believe themselves to be intellectuals. A recent poll of American college teachers discovered that no fewer than 50 per cent defined themselves as "intellectuals." That gives us a quarter of a million American intellectuals on our college facilities alone; if one adds all those in government and in the professions who would also lay claim to the title, the

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figure would easily cross the million mark! And if one also adds the relevant numbers of college students, one might pick up another million or so. We are, then, in a country like America today, talking about a mass of several millions of "intellectuals" who are looking at their society in a highly critical way and are quick to adopt an adversary posture toward it.

It is this class of people who are most eloquent in their denunciations of inequality, and who are making such a controversial issue of it. Why? Inequality of income is no greater today than it was twenty years ago, and is certainly less than it was fifty years ago. Inequality of status and opportunity have visibly declined since World War II, as a result of the expansion of free or nearly-free higher education. (The percentage of our leading business executives who come from modest socioeconomic backgrounds is much greater today than in 1910.) Though there has been a mushrooming of polemics against the inequalities of the American condition, most of this socioeconomic literature is shot through with disingenuousness, sophistry, and unscrupulous statistical maneuvering. As Professor Seymour Martin Lipset has demonstrated, by almost any socioeconomic indicator one would select, American society today is—as best we can determine—*more* equal than it was one hundred years ago. Yet, one hundred years ago most Americans were boasting of the historically unprecedented equality that was to be found in their nation, whereas today many seem convinced that inequality is at least a problem and at worst an intolerable scandal.

The explanation, I fear, is almost embarrassingly vulgar in its substance. A crucial clue was provided several years ago by Professor Lewis Feuer, who made a survey of those American members of this "new class" of the college-educated—engineers, scientists, teachers, social scientists, psychologists, etc.—who had visited the Soviet Union in the 1920's and 1930's, and had written admiringly of what they saw. In practically all cases, what they saw was power and status in the possession of their own kinds of people. The educators were enthusiastic about the "freedom" of educators in the USSR to run things as they saw fit. Ditto the engineers, the psychologists, and the rest. Their perceptions were illusory, of course, but this is less significant than the wishful thinking that so evidently lay behind the illusions. The same illusions, and the same wishful thinking, are now to be noticed among our academic tourists to Mao's China.

The simple truth is that the professional classes of our modern bureaucratized societies are engaged in a class struggle with the business community for status and power. Inevitably, this class struggle is conducted under the banner of "equality"—a banner also raised by the bourgeoisie in *its* revolutions. Professors are genuinely indignant at the expense accounts which business executives have and which they do not. They are, in contrast, utterly convinced that *their* privileges are "rights" that are indispensable to the proper workings of a good society. Most academics and professional people are even unaware that they are among the "upper" classes of our society. When one points this out to them, they refuse to believe it.*

The animus toward the business class on the part of members of our "new class" is expressed in large ideological terms. But what it comes down to is that our *nuovi uomini* are persuaded they can do a better job of running our society and feel entitled to have the opportunity. This is what *they* mean by "equality."

Having said this, however, one still has to explain the authentic moral passion that motivates our egalitarians of the "new class." They are not motivated by any pure power-lust; very few people are. They clearly dislike—to put it mildly—our liberal, bourgeois, commercial society, think it unfit to survive, and seek power to reconstruct it in some unspecified but radical way. To explain this, one has to turn to the intellectuals—the real ones—who are the philosophical source of their ideological discontent.

ANY political community is based on a shared conception of the common good, and once this conception becomes ambiguous and unstable, then the justice of any social order is called into question. In a democratic civilization, this questioning will always take the form of an accusation of undue privilege. Its true meaning, however, is to be found behind the literal statements of the indictment.

It is interesting to note that, from the very beginnings of modern bourgeois civilization, the class of people we call intellectuals—poets, novelists, painters, men of letters—has never accepted the bourgeois notion of the common good. This notion defines the common good as consisting mainly of personal security under the law, personal liberty under the law, and a steadily increasing material prosperity for those who apply themselves to that end. It is, by the standards of previous civilizations, a "vulgar" conception of the common good—there is no high nobility of purpose, no selfless devotion to transcendental ends, no awe-inspiring heroism. It is, therefore, a conception of the common good that dispossesses the intellectual of his traditional prerogative—which was to celebrate high nobility of purpose, selfless devotion to transcendental ends, and awe-inspiring heroism. In its place, it offered

* One of the reasons they are so incredulous is that they do not count as "income"—as they should—such benefits as tenure, long vacations, relatively short working hours, and all of their other prerogatives. When a prerogative is construed as a "right," it ceases to be seen as a privilege.

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the intellectuals the freedom to write or compose as they pleased and then to sell their wares in the marketplace as best they could. This "freedom" was interpreted by—one can even say experienced by—intellectuals as a base servitude to philistine powers. They did not accept it two hundred years ago; they do not accept it today.

The original contempt of intellectuals for bourgeois civilization was quite explicitly "elitist," as we should now say. It was the spiritual egalitarianism of bourgeois civilization that offended them, not any material inequalities. They anticipated that ordinary men and women would be unhappy in bourgeois civilization precisely because it was a civilization of and for the "common man"—and it was their conviction that common men could only find true happiness when their lives were subordinated to and governed by uncommon ideals, as conceived and articulated by intellectuals. It was, and is, a highly presumptuous and self-serving argument to offer—though I am not so certain that it was or is altogether false. In any case, it was most evidently not an egalitarian argument. It only became so in our own century, when aristocratic traditions had grown so attenuated that the only permissible anti-bourgeois arguments had to be framed in "democratic" terms. The rise of socialist and Communist ideologies made this transition a relatively easy one. A hundred years ago, when an intellectual became "alienated" and "radicalized," he was more likely to move "Right" than "Left." In our own day, his instinctive movement will almost certainly be to the "Left."

With the mass production of "intellectuals" in the course of the 20th century, traditional intellectual attitudes have come to permeate our college-educated upper-middle classes—and most especially the children of these classes. What has happened to the latter may be put with a simplicity that is still serviceably accurate: they have obtained enough of the comforts of bourgeois civilization, and have a secure enough grip upon them, to permit themselves the luxury of reflecting uneasily upon the inadequacies of their civilization. They then discover that a life that is without a sense of purpose creates an acute experience of anxiety, which in turn transforms the universe into a hostile, repressive place. The spiritual history of mankind is full of such existential moments, which are the seedbeds of gnostic and millenarian movements—movements that aim at both spiritual and material reformations. Radical egalitarianism is, in our day, exactly such a movement.

The demand for greater equality has less to do with any specific inequities of bourgeois society than with the fact that bourgeois society is seen as itself inequitable because it is based on a deficient conception of the common good. The recent history of Sweden is living proof of this proposition. The more egalitarian Sweden becomes—and it is already about as egalitarian as it is ever likely to be—the more *enragés* are its intellectuals, the more guilt-ridden and uncertain are its upper-middle classes, the more "alienated" are its college-educated youth. Though Swedish politicians and journalists cannot bring themselves to believe it, it should be obvious by now that there are *no* reforms that are going to placate the egalitarian impulse in Swedish society. Each reform only invigorates this impulse the more—because the impulse is not, in the end, about equality at all but about the quality of life in bourgeois society.

In Sweden, as elsewhere, it is only the common people who remain loyal to the bourgeois ethos. As well they might—it is an ethos devised for their satisfaction. Individual liberty and security—in the older, bourgeois senses of these terms—and increasing material prosperity are still goals that are dear to the hearts of the working classes of the West. They see nothing wrong with a better, bourgeois life—a life without uncommon pretensions, a life to be comfortably lived by common men. This explains two striking oddities of current politics: 1) The working classes have, of all classes, been the most resistant to the spirit of radicalism that has swept the upper levels of bourgeois society; and 2) once a government starts making concessions to this spirit—by announcing its dedication to egalitarian reforms—the working class is rendered insecure and fearful, and so becomes more militant in *its* demands. These demands may be put in terms of greater equality of income and privilege—but, of course, they also and always mean greater inequality vis-à-vis other sections of the working class and those who are outside the labor force.

Anyone who is familiar with the American working class knows—as Senator McGovern discovered—that they are far less consumed with egalitarian bitterness or envy than are college professors or affluent journalists. True, they do believe that in a society where so large a proportion of the national budget is devoted to the common defense, there ought to be some kind of "equality of sacrifice," and they are properly outraged when tax laws seem to offer wealthy people a means of tax avoidance not available to others. But they are even more outraged at the way the welfare state spends the large amounts of tax monies it does collect. These monies go in part to the non-working population and in part to the middle-class professionals who attend to the needs of the non-working population (teachers, social workers, lawyers, doctors, dieticians, civil servants of all description). The "tax rebellion" of recent years has been provoked mainly by the rapid growth of this welfare state, not by particular inequities in the tax laws—inequities,

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which, though real enough, would not, if abolished, have any significant impact on the workingman's tax burden. After all, the twenty billion dollars—a highly exaggerated figure, in my opinion—that Senator McGovern might "capture" by tax reforms would just about pay for his day-care center proposals, which the working class has not displayed much interest in.

Still, though ordinary people are not significantly impressed by the assertions and indignations of egalitarian rhetoric, they cannot help but be impressed by the fact that the ideological response to this accusatory rhetoric is so feeble. Somehow, bourgeois society seems incapable of explaining and justifying its inequalities—seems incapable of explaining and justifying how these inequalities contribute to or are consistent with the common good. This, I would suggest, derives from the growing bureaucratization of the economic order, a process which makes bourgeois society ever more efficient economically, but also ever more defenseless before its ideological critics.

For any citizen to make a claim to an unequal share of income, power, or status, his contribution has to be—and has to be seen to be—a human and personal thing. In no country are the huge salaries earned by film stars or popular singers or professional athletes a source of envy or discontent. More than that: in most countries—and especially in the United States—the individual entrepreneur who builds up his own business and becomes a millionaire is rarely attacked on egalitarian grounds. In contrast, the top executives of our large corporations, most of whom are far less wealthy than Frank Sinatra or Bob Hope or Mick Jagger or Wilt Chamberlain, cannot drink a martini on the expense account without becoming the target of a "populist" politician. These faceless and nameless personages (who is the president of General Electric?) have no clear title to their privileges—and I should say the reason is precisely that they are nameless and faceless. One really has no way of knowing what they are doing "up there," and whether what they are doing is in the public interest or not.

It was not always so. In the 19th century, at the apogee of the bourgeois epoch, the perception of unequal contributions was quite vivid indeed. The success of a businessman was taken to be testimony to his personal talents and character—especially character, than which there is nothing more personal. This explains the popularity of biographies of successful entrepreneurs, full of anecdotes about the man and with surprisingly little information about his economic activities. In the 20th century, "entrepreneurial history," as written in our universities, becomes the history of the firm rather than the biography of a man. To a considerable extent, of course, this reflects the fact that most businessmen today are not "founding fathers" of a firm but temporary executives in a firm—the bureaucratization of modern society empties the category of the bourgeois of its human content. To the best of my knowledge, the only notable biography of a living businessman to have appeared in recent years was that of Alfred P. Sloan, who made his contribution to General Motors a good half century ago.

Nor is it only businessmen who are so affected. As the sociological cast of mind has gradually substituted itself for the older bourgeois moral-individualist cast of mind, military men and statesmen have suffered a fate similar to that of businessmen. Their biographies emphasize the degree to which they shared all our common human failings; their contributions to the common good, when admitted at all, are ascribed to larger historical forces in whose hands they were little more than puppets. They are all taken to be representative men, not exceptional men.

But when the unequal contributions of individuals are perceived as nothing but the differential functions of social or economic or political roles, then only those inequalities absolutely needed to perform these functions can be publicly justified—and the burden of proof is heavy indeed, as each and every inequality must be scrutinized for its functional purport. True, that particular martini, drunk in that place, in that time, in that company, might contribute to the efficiency and growth of the firm and the economy. But would the contribution really have been less if the executive in question had been drinking water?*

So this, it appears to me, is what the controversy "about equality" is really about. We have an intelligentsia which so despises the ethos of bourgeois society, and which is so guilt-ridden at being implicated in the life of this society, that it is inclined to find even collective suicide preferable to the status quo. (How else can one explain the evident attraction which totalitarian regimes possess for so many of our writers and artists?) We have a "new class" of self-designated "intellectuals" who share much of this basic attitude—but who, rather than committing suicide, pursue power in the name of equality. (The children of this "new class," however, seem divided in their yearnings for suicide via drugs, and in their lust for power via "revolution.") And then we have the ordinary people, working-class and lower-middle-class, basically loyal to the bourgeois order but confused and apprehensive at the lack of clear meaning in this order—a lack derived from the increasing bureaucratization (and accompanying

* As Professor Peter Bauer has pointed out, the very term "distribution of income" casts a pall of suspicion over existing inequalities, implying as it does that incomes are not personally *earned* but somehow *received* as the end-product of mysterious (and therefore possibly sinister) political-economic machinations.

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impersonalization) of political and economic life. All of these discontents tend to express themselves in terms of "equality"—which is in itself a quintessentially bourgeois ideal and slogan.

It is neither a pretty nor a hopeful picture. None of the factors contributing to this critical situation is going to go away—they are endemic to our 20th-century liberal-bourgeois society. Still, one of the least appreciated virtues of this society is its natural recuperative powers—its capacity to change, as we say, but also its capacity to preserve itself, to adapt and survive. The strength of these powers always astonishes us, as we anticipate (even proclaim) an imminent apocalypse that somehow never comes. And, paradoxically enough, this vitality almost surely has something to do with the fact that the bourgeois conception of equality, so vehemently denounced by the egalitarian, is "natural" in a way that other political ideas—egalitarian or anti-egalitarian—are not. Not necessarily in all respects superior, but more "natural." Let me explain.

THE founding fathers of modern bourgeois society (John Locke, say, or Thomas Jefferson) all assumed that biological inequalities among men—inequalities in intelligence, talent, abilities of all kinds—were not extreme, and therefore did not justify a society of hereditary privilege (of "two races," as it were). This assumption we now know to be true, demonstrably true, as a matter of fact. Human talents and abilities, as measured, do distribute themselves along a bell-shaped curve, with most people clustered around the middle, and with much smaller percentages at the lower and higher ends. That men are "created equal" is not a myth or a mere ideology—unless, of course, one interprets that phrase literally, which would be patently absurd and was never the bourgeois intention. Moreover, it is a demonstrable fact that in all modern, bourgeois societies, the distribution of income is also along a bell-shaped curve, indicating that in such an "open" society the inequalities that do emerge are not inconsistent with the bourgeois notion of equality.

It is because of this "natural tyranny of the bell-shaped curve," in the conditions of a commercial society, that contemporary experiments in egalitarian community-building—the Israeli kibbutz, for instance—only work when they recruit a homogeneous slice of the citizenry, avoiding a cross-section of the entire population. It also explains why the aristocratic idea—of a "twin-peaked" distribution—is so incongruent with the modern world, so that modern versions of superior government by a tiny elite (which is what the Communist regimes are) are always fighting against the economic and social tendencies inherent in their own societies. Purely egalitarian communities are certainly feasible—but only if they are selective in their recruitment and are relatively indifferent to economic growth and change, which encourages differentiation. Aristocratic societies are feasible, too—most of human history consists of them—but only under conditions of relative economic lethargy, so that the distribution of power and wealth is insulated from change. But once you are committed to the vision of a predominantly commercial society, in which flux and change are "normal," in which men and resources are expected to move to take advantage of new economic opportunities—then you find yourself tending toward the limited inequalities of a bourgeois kind.

This explains one of the most extraordinary (and little-noticed) features of 20th-century societies—how relatively invulnerable the distribution of income is to the efforts of politicians and ideologues to manipulate it. In all the Western nations—the United States, Sweden, the United Kingdom, France, Germany—despite the varieties of social and economic policies of their governments, the distribution of income is strikingly similar. Not identical; politics is not entirely impotent, and the particular shape of the "bell" can be modified—but only with immense effort, and only slightly, so that to the naked eye of the visitor the effect is barely visible.* Moreover, available statistics suggest that the distribution of income in the Communist regimes of Russia and Eastern Europe, despite both their egalitarian economic ideologies and aristocratic political structure, moves closer every year to the Western model, as these regimes seek the kind of economic growth that their "common men" unquestionably desire. And once the economic structure and social structure start assuming the shape of this bell-shaped curve, the political structure—the distribution of political power—follows along the same way, however slowly and reluctantly. The "Maoist" heresy within Communism can best be understood as a heroic—but surely futile—rebellion against the gradual submission of Communism to the constraints of the bell-shaped curve.

So bourgeois society—using this term in its larger sense, to include such "mixed economies" as prevail in Israel or Sweden or even Yugoslavia—is not nearly so fragile as its enemies think or its friends fear. Only a complete reversal of popular opinion toward the merits of material prosperity and economic growth would destroy it, and despite the fact that some of our citizens seem ready for such a reversal, that is unlikely to occur.

The concern and distress of our working- and lower-middle classes over the bureaucratization of modern life can, I think, be coped with. One

* It must be kept in mind, of course, that retaining the shape of the curve is not inconsistent with *everyone* getting richer. The bell itself then moves toward a new axis.

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can envisage reforms that would encourage their greater "participation" in the corporate structures that dominate our society; or one can envisage reforms that would whittle down the size and power of these structures, returning part way to a more traditional market economy; or one can envisage a peculiar—and, in pure principle, incoherent—combination of both. My own view is that this last alternative, an odd amalgam of the prevailing "Left" and "Right" viewpoints, is the most realistic and the most probable. And I see no reason why it should not work. It will not be the "best" of all possible societies—but the ordinary man, like Aristotle, is no utopian, and he will settle for a "merely satisfactory" set of social arrangements and is prepared to grant them a title of legitimacy.

But the real trouble is not sociological or economic at all. It is that the "middling" nature of a bourgeois society falls short of corresponding adequately to the full range of man's spiritual nature, which makes more than middling demands upon the universe, and demands more than middling answers. This weakness of bourgeois society has been highlighted by its intellectual critics from the very beginning. And it is this weakness that generates continual dissatisfaction, especially among those for whom material problems are no longer so urgent. They may speak about "equality"; they may even be obsessed with statistics and pseudo-statistics about equality; but it is a religious vacuum—a lack of meaning in their own lives, and the absence of a sense of larger purpose in their society—that terrifies them and provokes them to "alienation" and unappeasable indignation. It is not too much to say that it is the death of God, not the emergence of any new social or economic trends, that haunts bourgeois society. And *this* problem is far beyond the competence of politics to cope with.

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The Last Jew on Earth

A Fable

Arthur A. Cohen

IN THE province of Catalonia, beside the rivers Ter and Onar, in the city of Gerona, on the Calle de la Disputacion, which commemorated a long-forgotten controversy between his kinsman, Rabbi Moses ben Nahman, and the convert Pablo Cristiani in the presence of King Alfonso and his court in the capital city of Barcelona, there lived in our time the last Jew on earth. He went by the name Acosta, a respected and honored patronym among Spaniards, but he was, like many, if not all, Acostas, descended from secret Jews.

Don Rafael Acosta owned, as did many citizens of Gerona, a shop that specialized in the leather goods for which the region is famous. He inherited the shop from his father who died when Don Rafael was a young man; however his mother had managed it with such meticulous efficiency that by the time of his twenty-fifth year, when it was time for him to assume control, it had grown to be one of the most prosperous shops of its kind in the city, exporting cured skins to leather fabricators in France and England and distributing gloves, jackets, coats, hats, and other articles of leather, made by householders in the region, to other parts of Spain and handicraft centers throughout the world.

Don Rafael became the director of a substantial business. His mother, now aged, her fingers gnarled by arthritis, sat in the study of their ancestral home, a stone house in the old quarter of Gerona, reading the Spanish fables in which she delighted, mending her son's clothing and administering Marietta, the cook, and Rosa, the maid, in the performance of their simple domestic tasks. Don Rafael had no interest in marriage or in the fathering of children although he was aware that in his ancestral faith celibacy was not a virtue and a man without wife and children was accounted but half a man. No matter. There were none of his people about him in the market of Gerona and none remained in the ancient Judería where he lived. He was unafraid of reproach or disapproving stares; fellow Jews had long since disappeared, and of their memory only tales and legends remained; with these he was familiar because his mother read to him on the Sabbath of the miraculous Toledans and Cordobans of earlier centuries who had caused the light of Judea to burn in that farthest reach of the Mediterranean. He knew of all the saints and philosophers, generals and poets, legists and mystics who had flourished in the land of Spain and of their trials and torments at the hands of Almohades and Holy Inquisition, and of the pogroms and desecrations, and of the ghettos, and of the fiery preachers—converts and Jew-haters all—who picked off, one by one, from the stock of Israel the finest branches and grafted them forcibly to the numberless trees in the forest of Christendom. But, as with his lack of interest in marriage and in the fathering of descendants, so Don Rafael had no interest in the ministrations of the Mother Church. He had mother enough in his own, security enough in his business enterprise, youth enough to enjoy its fulfillment, and he counted it possible that in his later years, like an aging prince, he might take to himself a young woman for warmth and pleasure and perchance, in the natural course, an heir would issue whom he would legitimate.

The people of the city of Gerona, set down by God in a plain of the north of Spain, where mountains and valleys were verdant and productive, where peasants worked and were fed by their land, and industry and effort were rewarded by crops and produce, were generally indifferent to the dogmatic exigencies of religion. Catalonia was at the crossroads between Christendom and Islam, the way station from the shrines of France to the shrine of St. James of Compostela, the political cat's paw of Louis of France, Henry of Aquitaine, Roger of Sicily. But that was some time ago. In recent centuries, Spain had settled into withdrawal; a half-century or so behind more industrialized societies, she was at this moment restored to a constitutional monarchy, a regal church, an agrarian prosperity, and an uncommon calm. Spain loved to be at rest. It was into this most serene and comfortable corner of that peninsula of inactivity that Don Rafael Acosta was born and lived.

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In his fortieth year, at the time of this narrative, his mother was gathered to the blessed and shrined in the memory of her son at the abundant age of eighty. Don Rafael was alone in his generous and well-trimmed world, walking in his black suit of heavy wool and his broad-brimmed Spanish hat to Casa Acosta in the Plaza España of Gerona, taking his lunch in the hotel on the square, joining friends in the bar behind the entrance to the ancient cathedral for a glass of wine and conversation or a game of billiards before returning to his home to rest and eat a late supper.

His was the simple and uncomplicated life of the commercial gentry. It suited his quiet manner and gentle bearing, his shy smile which he covered with his hand, his black hair which sometimes fell with youthful indiscretion over his forehead, his slim and erect body which he bore with agreeable disdain. He was an excellent and unexceptionable man, and it was through no fault of his own that it came to him to enact the remarkable drama of being the last Jew on earth.

Don Rafael knew nothing of the world. That is the critical fact. The events of the larger world were quite simply irrelevant to him. Nothing beyond the precincts of Gerona engaged his attention, unless of course a famine in Uruguay or a pestilence in Argentina destroyed so many hundreds of thousands of heads of cattle that the price of Spanish hides was forced by scarcity to unexpectedly profitable levels. Then Don Rafael would smile without covering his mouth and point to the newspaper in the bar behind the cathedral and announce the good fortune which was Gerona's through the bad fortune of South American cattlemen. It was a simple view of events and not unlike the view of most men. But aside from that, aside from the report of news that bore upon their lives directly and without the requirement of reflection, he and his associates and friends had no curiosity about the great world.

It could not be known therefore or regarded with anything more than passing interest that in that year, Don Acosta's fortieth year, the conversion of all the world to the Catholic faith was completed. Assuredly the Cardinal Archbishop of Gerona noted the event and delivered sermons celebrating it, but his remarks were consigned to the back page of the Monday edition of the newspaper, below the results of the soccer tournaments and the *corrida*; these remarks were hardly noted by the prosperous burghers, perhaps least of all by Don Rafael, who never read the *Noticias Religiosas,* and in fact used to avert his eyes in a millennial reflex at the sight of the person or picture of the Archbishop in his Episcopal robes. It should be recalled, however—and this he remembered much later—that his mother on her deathbed had taken his hand and put it to her heart and demanded his promise that until his own death he would not depart from the faith of their ancestors. He had sworn.

THE ancestors of Don Rafael Acosta had come to Gerona in the time of Moses ben Nahman, the Talmudist, the commentator, the grammarian, the mystic. Moses had lived in fact directly across the road from Don Rafael Acosta's paternal ancestor, who had come to Spain from the Muslim kingdom of Fez in the early part of the 13th century. The Acostas were a distinguished family, physicians and Talmudists, who served churchmen and grandees with uncompromising dispassion and rectitude while never neglecting the poor and sick among their own people.

It was at the time of the massacres of 1391, more than a century and a half after the Acostas had come to the city of Gerona, that the family publicly abjured the Jewish faith, renounced the ways of their ancestors, and took upon themselves the outer garments of Christian worship. They appeared to serve the Lord Jesus Christ mightily, abstaining from meat on Friday, attending mass with regularity, receiving the sacraments of the Church, giving obedience to its laws and regulations. What was known was that, foreseeing the possibility of just such times as these, the old patriarch of the Acostas, Solomon ben Yehudah, had drawn up and notarized a document, signed in his presence by all those of his family, binding them forever (despite any and all derelictions which might result from fulfillment of *the* commandment of our people, that we live) to obey in continuity and to death the seven principles of the faith of Noah. Moreover, wherever possible they were sworn to the observance of the Sabbath and the fasts of Ab and the Day of Atonement. They were then commanded, even to the fiftieth generation of those who might live, to return in fullness and faith to all the remembered observances of the House of Israel, to remove from themselves the deceiving guise of the Other Faith, and to obey the God of their fathers until the time of the true Messiah—but this only when true service could be accomplished in peace, serenity, and without threat to life.

The family swore to this document, affixing their names, some seen even in children's scrawl. The document was placed behind a vaultstone over the high fireplace of the reception hall of their home and each year, by candlelight, on the Sabbath preceding the Day of Atonement it was removed and read aloud. In more recent times there was none who knew Hebrew, but no less faithfully the family gathered on what it believed to be the Sabbath before the fast (they had nowhere to turn for accurate knowledge of the calendar and during the 19th century, although the fires of the Inquisition had long since been banked, the spirit of Spanish intoler-

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ance remained pure and uncorrupt, and no efforts were made to uncover and return these secret Jews). They withdrew the document, examined it in silence, swore an oath of loyalty, and returned the document to its hiding place. Correct Catholics—some of them, indeed (may they be spared in His mercy), believing Catholics—they nonetheless maintained this secret practice of obeisance. And so it continued to the time of the family of Don Rafael Acosta.

Change, in the guise of boredom and inaction, had come to the Spain of Don Rafael's parents. No longer obliged by law to be an *observant* Catholic, it being sufficient that one remain in the eyes of the world a Catholic, the father of Don Rafael began to educate himself in the practice of his ancient faith, obedient to the demands of his ancestor, Solomon ben Yehudah. He secured books of instruction in the Hebrew language and explained their presence in his home by the curiosity he felt for the life and times of the antecedents of his Christian Lord and Redeemer. In time he taught himself, his wife (a distant cousin whom he had married in her youth), and then his only child and son, not only the language but the liturgy of the Jewish people. They were not meticulous in their observance, it being left to the declining years of his father and the fifteenth year of Don Rafael's life to learn by accident about the laws of the phylacteries (which they undertook to procure and don) or the *mezzuzah* (which they promptly affixed to their doorway concealed behind an iron cross).

Don Rafael Acosta could not have known, then, that he was the last Jew in Spain, indeed the last Jew in Europe, that no Jew survived in the Holy Land, that all the crypto-Jews, proto-Jews, aboriginal Jews, the few hundred Samaritans who clustered on Mount Gerizah, the black Jews of Harlem, the Falashas of Ethiopia, descendants of the Queen of Sheba, were no more; that the small community of Japanese Jews, the Karaites of Southern Russia, the Jews of New Delhi and Bombay, the surviving Chinese-Jewish family in Shanghai, that all these had vanished, gathered up into the Holy Roman Church. But not these alone. Not Jews alone had vanished from the earth. Indeed, they had been the last to go. Some, to be sure—refusing the gentle advice of Franciscans and the hectoring Dominicans and Jesuits who had passed throughout the world in caravans of faith, distributing crosses and rosaries, instructing in the day and baptizing at nightfall—some chose to die, taking poison or starving themselves to death in undemonstrative demurral. But they were few and their numbers were not reported. It was the case that after two thousand years of militance and combativeness, what the Church had sought by sword fell to it now without effort.

It was a miracle of the Church Triumphant. Sikhs and Buddhists, Confucians and Shintoists, Taoists and Zoroastrians, Holy Rollers and Methodists, Adventists and Christian Scientists, Muslims of the Mutakallimun and Muslims of the Sufi, all these capitulated, singly, in family, in village, tribe, whole nations in an orgy of pacific espousal. Giant crosses played the skies of all the continents by day and night, radios offered masses and oratorios of thanksgiving. The numbers of the recalcitrant were reduced gradually, unapproachable tribes contacted and inundated by forces of missionaries. The tropical forests of Indochina, the tangled rivers of New Guinea, the green maze of the Amazon were all penetrated and their people converted.

The Reformed churches were the first to bow their knee to the Holy Pontiff, then came the Patriarchs of the Eastern churches, then the Muslims of North Africa, the Near East, and Asia, and then polytheists and pagans of Asia, and last, following atheists of North America and Europe, came the picking off of the Jews, those wild fruits of the branch, the first flower of divinity, the last witnesses to stubborn unbelief. It was done at last. The new millennium could begin. The reign of the child of God, the son of the Lord, the lamb of heaven, could begin and ultimately, finally, at a moment that would still remain unknown the Parousia would come to pass. The Christ would return in glory, and the world would be judged. All believed that they would be saved, nature transfigured, and the age of renascent beatitude, at the end as it was in Paradise at the beginning, would commence.

It so happened that a young priest from Saragossa, just returned from a triumphant sojourn among the tribesmen of the African grasslands, had taken his old mother and father on a tour of Spain. They arrived in Gerona late on a Friday afternoon and parked their battered car in Plaza España, before Casa Acosta. Don Rafael had been busy throughout the day. A convention of nurses had just completed its deliberations and customers crowded his shop to buy presents for their families. It was late in the day and he had become accustomed to returning home early on the eve of Sabbath so that Marietta could serve his supper earlier than usual, depart, and leave him to a quiet evening of reading in the Torah and examining the rare editions of Hebrew works he had begun to collect. He had closed the door behind the last nurse, a pretty girl from Valencia, in honor of whose long black hair he had offered a ceremonial discount. He had already sent off his assistants and turned out the lights in the stockroom when he heard a knock at the front door. He determined to ignore it, but the knock continued, followed by a low, muffled, but insistent call for help followed by a plaintive "*por favor.*" Annoyed, Don Rafael unlocked the door and

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opened it. The young priest from Saragossa stood before him.

"Sir," he said directly, "my car refuses to start. Would you be kind enough to push me into the street? Perhaps then I can encourage a passing car, if one chooses to come at this hour, to assist me further."

"There will be no cars at this hour. Not for two more hours. Those that come now are all rushing to go home. I doubt that even our gracious Geronans will stop for you, Father."

"You may be right. The problem is my parents." He motioned to an old couple seated erect, unsmiling, in the back seat.

"Indeed," Don Rafael commented. He thought he might show hospitality. It did not matter that it was the eve of the Sabbath. The young priest could not know or care. He seemed pleasant enough. He would bring them to his home and call Garaje Jaime to assist them. By ten o'clock they would be off and he could retire to his study. He proposed that the priest and his parents return to his home for supper. The priest smiled appreciatively and after a brief and virtually inaudible consultation with his parents, who even then did not speak but inclined their bodies slightly in an unspecific nod of acknowledgment, the proposal was accepted. Don Rafael called his housekeeper to inform her of his guests and arranged with Jaime to send someone to pick up the keys and recharge the battery of the old car. It was done.

His guests were left in the darkened drawing room of his home. Rosa, the niece of Marietta, served them sherry while he rested. At eight o'clock a light supper was served. It had not been customary in his family for a large meal to be offered in honor of the coming of the Sabbath. The festive meal, as always among working Spaniards of the provinces, was at noontime. A simple soup, a fish turned in oil, and a salad were sufficient. And wine.

The priest (he had introduced himself and his family as Mendoza, his own name being Don Xavier Maria) was curious, but not astonished, to find Don Rafael seated when they entered, a small black velvet skullcap pushed to the rear of his head, almost indistinguishable in the twilight. The priest, peremptory as is habitual to his vocation, made grace without deferring to Don Rafael's wishes, crossed himself, was followed in this by his parents, and commenced to spoon the soup, unaware that Don Rafael had not responded "Amen" to his benediction nor, for that matter, crossed himself. Don Rafael pushed back the heavy oak chair, rose to his feet, poured wine from his drinking glass into a small silver thimble cup and incanted quietly, but without haste or embarrassment, the *kiddush* of sanctification, sat once more, broke off a piece of bread from a small loaf which stood before him, and blessed it. Not until he was about to lift his spoon to begin his meal did he become aware that his guests were motionless, no longer eating, their faces ashen with incredulity. Of a sudden the old lady began to cross herself rapidly, hitting her forehead, shoulders, and chest in a frenzy of movement. The old man began to shake, one leg striking the table repetitively. Only the priest remained unstartled by the scene, though he regarded it as curious. He turned to his parents and with a gesture of his hands calmed them. He turned next to Don Rafael, who had watched their consternation with amused confusion.

"Who are you, Sir?"

"I, Father?"

"Yes, my friend."

"I? Indeed you must know. I am the proprietor of a leather shop in the Plaza España of Gerona, called Casa Acosta. *I* am *the* Acosta. Don Rafael Arturo Moyse Acosta of Gerona. Born in Gerona. And, with the grace of God, to die in Gerona in this house."

"I see. Yes. Quite so. But, tell me, Don Rafael, what was that rite you performed?" the priest demanded, wagging his finger theatrically at the silver thimble cup and the bread.

Don Rafael was abashed at the priest's unexpected rudeness, but he replied. "That rite? Father, you must know it well. It is the ancient ritual from which the Eucharist of the Church arises. Wine. Bread. Blood. Body. You must know?"

The priest frowned and a tic appeared over his left eye, a slight irregular spasm. "I know of no such rite. Indeed, there were a people, the Jews, who until recently practiced such a cult, but they are either dead or converted."

"Indeed," Don Rafael replied.

"Completely. Yes, the last of them were baptized eighteen months ago. I, personally, was responsible for administering baptism to the remaining forty Jewish families of Fez, Morocco, two years ago while on my way south toward the tribes of the grasslands. I am finished with them now. Every Jew and every Bantu who came into my way has been baptized."

"In that case, Father, I must disappoint you. My family came from Fez more than 700 years ago. I am, if you will, a Spaniard from Fez, and moreover I am a Jew. It may well be that I am the last Jew on earth." Don Rafael began to laugh. The very idea seemed so witty, so preposterous, there was nothing to do but laugh. He laughed a good while, his face reddening, his hand steadying the skullcap on his head.

The priest frowned. Anger replaced curiosity. "I do not believe you, Don Rafael Acosta."

"Believe me, what?" Don Rafael replied, his laughter subsiding.

"That you are a Jew."

"But, of course I am. I am, as regards the

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world, an unobservant Catholic, a not unusual phenomenon in Gerona. No self-respecting Spaniard would go to Church; that is for women and old men and parents of priests. I was born a Catholic of visibly Catholic parents. But my father and mother were both believing, practicing, devout Jews. I am as well. And now if you will excuse me for a moment. I should like to call Jaime."

DON RAFAEL rose from the table and left. The remainder of the meal was served, but Don Rafael's guests ate no more. The mullet in white wine did not please them, nor the salad, nor the fresh fruit. They were thunderstruck. Don Xavier sat without speaking. His mother suggested that he lead them in a decade of the rosary, but the young priest demurred. Something more drastic was called for.

Don Rafael returned to the table after it had been cleared and coffee and walnuts served. "It's done. Fine. The man from the garage was just here. I gave him the keys and he will drive your car here when it is repaired. There will be no charge. Hospitality, particularly Sabbath hospitality, is always complete."

"My dear Don Rafael, I do believe that what you said is correct."

"What, Father?"

"That you are the last Jew on earth."

"No, my dear Father, I was joking. I was teasing you. That's quite unfair. My apologies."

"No, no. You don't seem to understand. In all likelihood what you are saying is true. You are the last nonbeliever in the world, not simply the last Jew on earth, the last nonbeliever, the last non-Catholic."

"But if you wish you can regard me as a believer. I was baptized. It's there, as you would say, even if it can't be seen. It's only that I don't believe a word of the Catholic faith, not a word. I am a Jew, and that's quite enough."

"Quite enough for whom?" The priest spoke with solemnity.

"For me, of course. For me. Nobody demands more of man. I am a decent man, a good Spaniard. I support the government, endorse its laws, contribute to charity. It is only that I am stubbornly pledged to my ancestry."

Don Xavier did not persist. It seemed hopeless. His host seemed to have no interest in his anomalous situation. He was without curiosity, dull, unimaginative. It seemed irrelevant, more, wholly uninteresting to him that he might in fact be the last Jew and the last non-Catholic on earth. It was pointless to contend further with such proud and indomitable ignorance. The priest broke off the conversation, thanked Don Rafael for his hospitality, and left as soon as the car was brought. He did not neglect, however, upon arrival at his hotel that same night, to address a letter to the Cardinal Archbishop of Gerona, The Most Reverend Pedro Fernando Corazon y Iturbe. His letter read:

Most Reverend Father,

It is my duty to inform you that in your midst there is one, Don Rafael Acosta, proprietor of Casa Acosta on the Plaza España of your city, who remains, despite the visible triumph of the faith, recalcitrant and unconverted. He is, dangerous enough, a lapsed Catholic, having admitted to me that he was baptized at birth, but more grievous than this, his heresy is not that of natural ignorance or libertinism, with which we could more easily contend, but of active devotion and fealty to his ancestral faith, that of the benighted Jews.

There are, you are aware, no longer Jews in our world, may the mercy of the Lord be praised. He is, I feel confident to claim, the last. But it is not simply that he proclaims his faith (I witnessed at his table this evening the performance of antiquated rites which gave me and my aged parents who were the inadvertent victims of his hospitality a shiver of mortal terror) from the fount of simple ignorance. With such ignorance we have proved in recent years we are more than capable of dealing. It is rather that he, who bears upon his brow the waters of baptism, by giving allegiance to a dead belief, actively despises our truth. If he remains unrepentant he will corrupt others. Knowing as we do that the ways of truth are encumbered with thorns and stones, we cannot risk that one, even one, active unbeliever be allowed to thrive, lest his presence infect others who find the path of salvation hard.

I urge you to take action.

If for any reason you wish to contact me, I am shortly to return to my family home in Saragossa, where I am available at the Church of San Xavier, after whom I am named.

I am a priest of the faith recently returned from our missions in Africa.

Yours respectfully,
Xavier Maria Mendoza

Don Rafael, on the other hand, did not think further of his evening with the family of Mendozas. He had found the meal tedious, the priest ill-mannered and ungracious, and his parents superstitious peasants. Once they had left he drank coffee in his study until midnight, reading quietly from his father's Bible the portion of the week which tells the story of the righteous convert, Jethro, who was the father of Zipporah, who was the wife of Moses, who was the father of all our people.

The following days were uneventful. Twice Don Rafael observed that a middle-aged man in a black suit and white straw hat stood across the street from his shop, smoking small cigars, but he imagined he was an idler who fancied himself elegantly turned out and stood about to attract the attention of the girls promenading the plaza at noontime. On the fifth day his assistant, Pablo Henriquez, motioned to the idler and said laughingly, "We are being spied upon, Don Rafael."

"Who? Where?"

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"There, across the street. He is there during the comfortable hours, but when I arrive early in the morning to open the shop, there is another, a bald, fat man who is relieved about eleven by this one."

Don Rafael shrugged without interest. "I don't understand, but if it continues I will see to it. I am well-known and respected in Gerona. Why should anyone spy on me?"

The following Friday when we arrived at the Plaza España to have coffee in the cafe which was directly across the square from Casa Acosta, he noticed a small crowd gathered before his store. He hastened toward the crowd and, pushing through, saw to his horror that the front window of the shop had been broken. Pablo and his fellow-assistant, Benito, had begun to hammer a wooden beam across the window and clean away the glass, but the shock of this vandalism left Don Rafael stupefied.

Don Rafael called the police and the Alcalde. An inspector from the police department, with whom he often played billiards, arrived and explained apologetically that he knew nothing of the culprits, that, indeed, he would be vigilant in pursuing them, but, he added as he turned to leave, "You may well have brought this upon yourself, old friend." Were it not that he knew this man's wife and children, having bought them ice cream each time they came into his shop, he would have lost his temper, perhaps even have struck the inspector. As it is, his rage increased and tears of frustration came to his eyes. He closed the shop for the day, sent his assistants home, and sat in the darkened interior, occasionally stroking the finely tooled display cabinets, their stomachs decorated with carved flowers, their feet golden orbs covered with Empire ivy.

Nothing happened during the remainder of the day, neither telephone calls nor further visitations from the police. The inspector did not return. The Mayor, who had once dined in his home, did not respond to his call.

Don Rafael was upset, gloomy to be more precise. He had never experienced vivid fantasies of enmity or persecution, but the days which followed provided him with fuel enough for a furnace of suspicion. The window was only the beginning. One night the shop was broken into and all the cabinets of ladies' purses and the glass counters with men's wallets and watchbands were overturned. Nothing irreparable, nothing broken, nothing stolen, but hours of restoration and inconvenience. A few days later a drawing of a Jew in sackcloth, his head surmounted by a medieval conical hat, a sign around his neck proclaiming him "Marrano" and the flames of a bonfire searing his bare feet appeared in whitewash on the window of the shop. A curiously scholarly insult, Don Rafael thought. He did not immediately discern its source. A leaflet—Benito and Pablo gathered up fifty of them scattered in the wind that circled the plaza—denounced Casa Acosta as the purveyor of cheap, synthetic products, the leather imitated, the prices inflated. Business did suffer. The other merchants commiserated with Don Rafael, whom they liked, but professed ignorance of the origin of his misfortune. The harassment continued for a month, vandalisms, insults, graffiti, obscenities. Benito quit Don Rafael's employ, claiming a nervous stomach. The matter was grave. To be sure, Don Rafael was not indifferent to the situation. How could he be? But he was ineffectual. He telephoned the Prefectura several times daily, but each time the Jefe was unavailable and the duty officer answered with bored rudeness. He wrote a dignified letter to the Alcalde of Gerona, but Don Francisco did not reply. It seemed hopeless, and Don Rafael, by now in genuine torment from many sleepless nights and undigested meals, contemplated leaving Gerona, even leaving Spain.

On a Thursday afternoon, nearly five weeks after the original visit of the itinerant priest and his parents, a limousine bearing the coat of arms of the Episcopal Diocese of Gerona appeared before the door of Casa Acosta. The chauffeur, a sinewy Spaniard with thin, dry lips, presented him with a letter, signed by a Monsignor Siguente, the personal secretary of the Cardinal Archbishop, requesting the presence of Don Rafael in extraordinary audience that afternoon, in fact in fifteen minutes. The chauffeur, without so much as an "excuse me," went to the rear of the shop—indeed as though he knew it—and brought Don Rafael his suit jacket and topcoat which hung in a small wardrobe in the wrapping room. Don Rafael followed the chauffeur to the limousine, entered and sank back into the refined comfort of the ancient Mercedes. The car started off, up across the bridge into the old city of Gerona, up the back streets toward the Cathedral and the Palace of the Cardinal Archbishop. It was not a long ride. Six, perhaps ten, minutes. The car stopped and the chauffeur opened the door for Don Rafael. Don Rafael hesitated. It is not that he was frightened. He had been to the Palace many times, during the annual blessing of the city, at Christmas time when the Cardinal saluted the merchants of Gerona, and indeed at the investiture banquet of the present Cardinal. He hesitated, then, not from nervous unfamiliarity. Rather he dimly understood that perhaps not the Jefetura, not the Alcalde, not even the few jealous merchants of the Plaza España were responsible for his misfortune, but the Cardinal himself, and if the Cardinal, the whole of the Church. He struggled out of the car.

The chauffeur walked ahead, his hand beckoning him from behind to follow. Damned impu-

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dence, Don Rafael thought. He was led through a dark vestibule lined with heavy furniture and bust portraits of the Archbishop's predecessors, men with lean jaws and small eyes or else jowls cushioned with flesh. They ascended two flights of stairs to an antechamber where a young priest sat in semi-darkness writing entries in a large vellum-bound volume. The priest jumped up, looked at Don Rafael with a smile, rang a small handbell which must have been concealed in the palm of his hand, and the vast oak doors before which they stood opened.

Don Rafael entered and the doors closed behind him. He stood alone in the darkness. A voice from within another chamber beckoned Don Rafael to enter. He did, advancing four steps through an archway into the room which appeared to be a library, for there were tiers of shelves lining the walls although few books could be seen.

"Come closer," a small voice beckoned. "You will not be able to see me, unless you come closer." Don Rafael advanced hesitantly, his perspiring right hand rubbing against his pant leg. He was drying it, anticipating the contact of greeting. "Closer still. I am not well. Nor am I an easily visible man even if I were." Don Rafael walked toward the voice and saw a very tiny priest, who sat on a low divan covered in red damask. A single light from a lamp shone upon the table to the side of the divan. In the peripheral light which barely included the priest Don Rafael could see a man of considerable age, his face a map of rivulets and creases, his skin the color of wheaten wafers, dotted with brown grain. "Do sit next to me, my son." Don Rafael sat upon the divan and clasped his hands before him. "Do you know who I am?"

"Your Eminence?"

"Not quite. I am no white eminence. Grey, black, scarlet perhaps, but no public eminence in the panoply of the world." The old priest chuckled. "No. I am a priest pure and simple (I am Father Espinosa), but my responsibilities encompass the Society for the Propagation of the Faith, the Secretariat for the Promotion of Christian Unity, and until recently the nearly moribund Holy Inquisition. Note well that I have said 'until recently' and 'nearly moribund.' It would appear you intend to revive me."

Don Rafael did not understand, although he remembered well from history books the cruelties of the Inquisition. But no one had been burned in Spain since the 18th century.

"Father. I do not understand you."

"You will understand me terribly well, my son. Do you smoke?" The priest withdrew a packet of cheap cigarettes from the pocket of his soutane and offered one to Don Rafael. Don Rafael waved it away. He was becoming unnerved.

"Help me then, Father, to understand why I am here, why I am being persecuted."

"Are you a Catholic, my son?"

"The truth, Father, is this. I was baptized a Catholic as were all my family, but we have never practiced nor believed the faith. We are Jews descended from Jews who in this good Spain of our times are able, without giving public offense or disgrace to our friends and neighbors, to honor what we believe."

"You are a lapsed Catholic?"

The phrase came to his head, "Canonically speaking."

"In a word, then, you are a Catholic in mortal sin."

"No Father, I am an observant and believing Jew who through the habit of centuries since our forebears were driven from this land has been obliged to appear to be what he is not. I am the sole surviving member of my family. I am not married. My parents are dead, may they rest in peace. I am all that is left."

"Precisely!"

"Precisely what?"

"Precisely the point. You are all that is left anywhere, my son, anywhere in the entire world."

"I don't understand."

"Technically we could ignore you. We could say to ourselves, 'This peaceful Church has good Catholics and bad Catholics.' We could say to ourselves quite simply that you are a bad Catholic—no sacraments, no communion, no prayers and benedictions. That would be all right under certain circumstances—if you lived, say, in Zanzibar or Tanganyika. But here in Catholic Spain it is a different matter. And in Catholic Gerona, founded even before the time of Rome, an ancient, ancient city of the faith, to have in the midst of Gerona, in the bosom of Spain, in the heart of the West, in the innermost ventricle of the heart of Christendom, not only a lapsed Catholic, but a believing Jew—no, my friend, that is quite a different matter."

DON RAFAEL clearly did not understand the priest. He smiled in dumb incomprehension. Father Espinosa shifted his inconsequential weight; his feet, hidden beneath him, covered by his soutane, appeared as small protuberances seated in red velvet high-heeled pumps. They peeked out at Don Rafael, caught the light, and shone. The priest observed Don Rafael's curiosity. "My small feet," he said, lapsing into reverie. "My gazelles, I call them," he went on, first addressing them and then Don Rafael. A curious fellow, Don Rafael mused. "A different matter, my son."

"What? Which?" Don Rafael had lost the conversation. Feet. Shoes. The endearments of Egypt.

"We have returned, my son. From reverie to reality. You have not understood me, have you?"

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he said, extending his bony hand, white flesh to pinch Don Rafael's leg. "Are you awake to my meaning?"

Don Rafael became dizzy; a small pain, hidden at the base of his skull, moved out of the moraine of buried impressions and memories into the whole of his head. He asked for water. A bell tinkled and a pitcher of water and tumbler appeared. He requested an aspirin. It was produced. He saw no one, but hands reached around him out of the darkness to set down what he had requested.

"Are you quite restored?" Don Rafael nodded. "In that case, let me continue. It should be clear by now. You are, my friend, not alone the last Jew in Gerona, the last Jew in Catalonia, the last Jew in Spain, the last Jew in Europe, but in fact the last Jew in the entire world. The very last." The priest struck his knee with two fingers. It was not an emphatic gesture, but it was emphatic enough.

"I see now," Don Rafael murmured. "Clearly now. It is for this reason that I am persecuted. First that priest and his family, and then the humiliations done to me and my establishment. Yes, I see."

"Those torments embarrassed me, I assure you, Don Rafael. I have put an end to them. Our Lord, the Cardinal Archbishop, is a peasant from Asturias, adamantine, to be sure, but somewhat crude. I persuaded him to put an end to harassment. He listens to me. No, no. There will be no further persecution." The priest stopped for a moment and sucked on his lower lip. He swallowed hard and his throat clucked. The moisture gathered from his lips (like a bird sipping dew) was quite enough. "If you do not mind, it will all be satisfactorily completed when you sign this document." He took a letter from a drawer in the secretary which stood at the head of the divan and handed it to Don Rafael. "No, no. No need to read it now. It is perfectly clear. It is simply a document of faith, precise and crisp. By the regulations of canon law you must be free to examine it in quiet and contemplation. To submit to Christ is a choice of will. The will must not be constrained. I would not think to have you sign it here in my presence, under the constraint of my inquisitorial authority. No, no. You must have time and leisure to reflect. I think our interview is concluded."

Don Rafael took the paper, folded it, and put it in his pocket. "By tomorrow then. Let us say, three o'clock in the afternoon. At the Cathedral. Tomorrow. You will return with the document, executed, notarized, if you please, and we will hold a small celebration for the last Jew on earth." The priest laughed. Don Rafael left the presence of the priest and descended to the small plaza before the Episcopal palace. He thought to return by foot down behind the Arab baths, the long way, circling back to the small rambla of the city by way of Calle de la Plateria to the avenue at the center of which Casa Acosta had stood for more than one hundred years. But as he reached the bottom of the steps the Mercedes hummed to a stop before him and the chauffeur, this time with cap in hand, alighted and hurried around to open the door for him. He had no choice but to get in and be driven to his home. When he reached the door of his house and reached up to put his fingers to the parchment of the *mezzuzah* concealed behind the iron crucifix, both had disappeared and in their place a minuscule *ex voto* had been attached. He entered the house and a painted statue of the Virgin, illuminated by a halo of colored lights, affronted his eyes. The living room was a garden-house of white lilies and where before the pictures of his family had addressed their love to his eyes now hung St. Francis being visited by the stigmata, St. Sebastian delirious in his pain, St. Stephen beheaded, and others and more in the ecstasies of their martyrdom.

Don Rafael did not turn the pictures to the wall or order them covered. He let them be. He stared through them, indifferent. He took his supper as before. He made his blessing and he said his grace and he thanked God that he had been permitted the honor of this season and its trial and he went quickly to his room, not daring or even caring to ask Marietta who had waited anxiously for his questions how these disgraceful intrusions had come to pass. It was not her fault. Nor, he reflected, was it his. The maladjustments of fortune, the wounding of time.

It was nearly midnight when he emptied his pockets and took out the momentous letter. He sat back in his tufted chair, his bare feet cold upon the stained wood floor and poured himself a brandy and then opened the letter. It read:

I, Don Rafael Arturo Moyse Acosta, known to all as Don Rafael Acosta, resident in the most Catholic city of Gerona in the province of Catalonia, submissive to the grace of her protector and lord, the Cardinal Archbishop, The Most Reverend Pedro Fernando Corazon y Iturbe, do hereby declare in the presence of all the multitudes of Christendom that I abjure, deny, refuse, hold in contempt, anger, and dismay, repudiate, reject, and despise the congeries of errors and the magnitudes of untruth which are, have been, and ever more shall be in the memory of man the doctrines of the Old Church, the dead Synagogue, the withered limb of Christ which by this act I do cut off. Though I am baptized into Mother Church I have wandered with her ungrateful recusants and though I was availed the instruments of my salvation, I blunted them and cast them aside for useless and deceitful teachings.

I am penitent. I implore the mercy of the Church and I repent my waywardness. In love and in faith I ask to be released from my sin,

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to have imposed upon me any penance the Church in its mercy deems fit to cover my stain.

For many hours he sat and watched the paper in his hand until the letters wavered and disappeared into blackness. He read it no more. The paper passed from his sight and the reverse, printed as images are printed in our brain, upside down for storage in the recesses of memory, was retained. He slept that night in his chair and in the morning, cold, his feet icy, a sniffle in his nose, a huskiness in his throat, he pulled himself up before the sun and bathed himself in its winter rays. He said the morning prayers as he had said them many thousands of times before. He wrapped himself in his phylacteries and wound the knot of unity around his middle finger and draped his father's silk prayer shawl over his eyes and resplendent before the sun sang out the praises of God and the abundance of His manifold compassions.

The morning hours passed and at eleven he returned to the shop, avoiding the chauffeur whom he saw lounging before the house. He went down into the cellar and through an underground passage which let out into the street three houses away, walked quietly to the Avenida, where, as was his custom, he took his coffee.

The noon hours came and the shop closed for the afternoon siesta. Don Rafael did not leave, but ordered a soup and fish to be sent in. He waited and he thought. A desultory reverie. He rolled back the skin of the fish and uncovered its skeleton embedded like a fossil in tender white flesh. Skin flayed from bones. A taste and it melted; his jaws worked slowly. He chewed long and distractedly until there was no flesh between his teeth and he bit his lip and cried out.

The shop reopened. An old lady bought an ivory comb in a tooled, black leather case. Don Rafael sat in the rear and sipped his coffee, already cold. He knew the letter of recantation by heart and its words blew through his mind like rain-soaked winter leaves. At ten minutes to the hour of three, the Mercedes came to the corner of the Plaza España and stopped; its driver, now dressed in grey gabardine and black puttees, approached the vitrine, rapped and crooked his finger. Don Rafael rose and pulled on his overcoat. His assistant stood by quietly, averted his eyes, and busied himself with a feather duster when Don Rafael nodded his goodbye.

The paseo was quiet. A German couple was drinking coffee at the Montaña Bar, but otherwise the shops were closed, the usual throngs of strollers were absent. The Mercedes turned around and passed to the rear of Casa Acosta into the narrow street which ascends through the Old City to the Cathedral square. The car moved like a lizard, scuttering forward and stopping suddenly to avoid an idling pedestrian. As the car mounted the cobbled streets, Don Rafael became aware of the numbers of people moving, it would appear, in the same direction as he. The last street before the Cathedral square was packed with people; the car—the only car—moved with difficulty, but the chauffeur never sounded his horn. People stepped aside and the car passed through.

The automobile entered the square as a light rain began to fall upon the bared heads of the multitudes, the thousands of Geronans, top-hatted dignitaries, choristers in black satin and white lace, the Bishops—there were eight—in rose gowns, the Papal Legates, and high above them, at the top of the fifty-eight steps of the marble staircase that ascended to the doors of the Cathedral, his Eminence, the Cardinal Archbishop of Gerona. At his side, holding his arm, was the withered priest, Father Dominic Espinosa.

The door of the automobile opened and Don Rafael stepped out into the warm rain. He looked about him and dazed by the assembly turned as if to reenter the car, but a chamberlain approached and grasping him firmly by the elbow, pressed him to the base of the stairs and sternly whispered: "Go up. The Cardinal awaits you. No nonsense now." There was nothing to do but obey. Don Rafael put his right foot to the first pediment and hesitated. The leg abandoned him. It tingled with electricity, benumbed. Don Rafael struck his thigh with his fist. The leg moved and he followed. Slowly he rose up, catching sight in furtive sidelong glances of old friends, Marietta, Pablo, and Benito, and unmistakably, the young priest Don Xavier Maria Mendoza.

A DOZEN steps from the top, Don Rafael hesitated. Those near him pressed forward, hands outstretched, thinking he would now retreat. He smiled. He was calm. He continued on his way. The last step brought him to the level of Episcopal authority. The *Te Deum* began, the Church doors swung open, incense floated into the rain, photographers discharged their flash bulbs, radio technicians adjusted the bank of microphones that stood to the rear of the Cardinal. The old priest limped to his side and spoke: "The world awaits you. Speak the recantation and then hand the document to the Cardinal and kneel before him." Don Rafael bowed his head in salutation to the Cardinal and moved toward the microphones. There was silence, but for the gentle patter of the rain. Don Rafael passed a hand lightly over his forehead and touched his eyes in a gesture of friendship toward himself. He paused and breathed deeply. He began. "I believe in one God, Father Almighty, maker of Heaven and Earth," and he paused, "and . . . and . . . that is what I believe, that is the only belief I share with you." Cries. "No, no!" "And the rest that I

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believe is what I have learned from my father and my father's father and all those in the generations of fathers which stretch back in the history of time to Moses, my first master. . . . And so much more, if you would like to hear about it."

Don Rafael paused. He would have continued and told the history of the generations of Israel, but he was not allowed. The microphones went dead, the crowd pushed forward in a mass up the stairs, and Don Rafael, shielded by the Cardinal who stepped forward to protect him (and for his solicitude was slapped in the face by a hysterical woman), retreated to the sanctuary of the Cathedral.

Don Rafael surrendered to the darkness of the Cathedral. The great doors had shut behind him, the shouts of the crowd had disappeared, even the Bishops and Monsignori who had crowded the chancel staring back at him and murmuring in consternation had vanished. He was quite alone. It must be sundown, he thought, for the rose window of the west wall shone purple. His mind was empty of thought, or rather it was full of so many thoughts he dared not settle upon one. The effect was the same—vacuity and apathy.

"It was brilliant," a dry voice crackled from behind him, a voice placed so close to his ear that he felt its breath upon his neck. He had no need to turn. He recognized the ancient priest of the Holy Inquisition, Father Espinosa. "Brilliant, brilliant. The opening of the Credo and no more. I congratulate you." The priest applauded and Don Rafael heard the measured beating of hands behind him.

"Don't mock me, Father. I staged nothing. In fact, Father, I almost went on—the whole Credo, by rote, just as I had learned it from the Sisters when I was a child, but that wasn't possible. I'm sorry, Father."

"You are a trouble, my son. Why couldn't you have been cooperative? Trouble for us, annoyance, irritation, and such an ordeal for you. Oh dear me." The priest was unhappy. "I'm not a young man, you must have gathered. And now all this exertion in my closing years. I had other projects for the end of my life. A visit to the monuments of the East and then retirement to a monastery for some restful meditation, and bleaching of my soul. And now this." The priest sighed. "You won't reconsider, would you?" Don Rafael said no. "I thought not. Well then, what to do? His Holiness telephoned. He was vexed. Do you realize that all of Spain and most of Europe, perhaps even Africa and Asia, heard your ridiculous broadcast? All of Christendom, all of Christendom. Oh dear." The priest cracked his knuckles nervously.

"I am sorry to have been a trouble to you, Father. But it had to be this way. You do understand, I'm sure. I might have signed the paper" (remembering it now, he handed it over his shoulder to the priest) "and gone on as before, masquerading my feelings, but that display you staged out there was intolerable. A humiliation. I just couldn't."

"Yes, yes, to be sure. A little overtheatrical, but then the Church is rather theatrical, don't you think? All our plainsongs and chants, our symbols and allegories, gold braid and lace, liturgical artifacts and mysterious bells, all these devices make the faith a bit spectacular. I find it exhilarating, however. The range is so extraordinary, from austerities that verge on the morbid to such ecstatic opulence. You don't agree. I know. You like your little desert visions, your bleak little visions."

"I'm tired, Father. A trying day, very trying. If you don't mind (and thank you for chatting with me), I'll be going."

Don Rafael rose, nodded distractedly toward the high altar, and went toward a side door at the apse of the Cathedral. Three officers were waiting and took him into custody. That Sabbath eve, he was flown to Rome. Father Espinosa was on the plane, seated in the tourist cabin, reading his breviary and sipping brandy, while Don Rafael and his captors dozed in the forward cabin.

Don Rafael was taken to Vatican City and turned over to an officer of the Swiss Guard who conducted him to an apartment. A week passed during which Don Rafael saw no one excepting a doctor who certified that his body and mind were sound. He was allowed to think. In the meantime the preparatory secretariats of the Council, those charged with developing its agenda, awaited advice from its listening posts throughout the world as to the effect of Don Rafael's stubbornness. They were not slow in coming. By week's end there were reports that a small group of Tibetan Catholics had fled to the mountains to renovate a lamasery, that a former Sufi in Cairo had mutilated himself during a trance, that an enclave of Sonora Indians had reinstituted the peyote ceremony, that two missionaries had had their brains eaten by supposedly pacified headhunters in New Guinea, and quite near to home, in Abruzzi, a shepherd boy claimed to have seen a bearded man with stubby horns coming down a hillock, carrying under his arm two engraved plaster tablets. There were now fifty or more Abruzzians awaiting the reapparition of Saint Moses. It was determined therefore that Don Rafael had to be made an example to the faithful, lest an incident of disease become an unchecked plague.

ELEVEN days from the evening of Don Rafael's arrival in Vatican City Father Dominic Espinosa met with an assembly of bishops in a chamber buried in the gloom of the Vatican. "My friends," he began, "we are at a curious impasse. It is ironic that now, at this moment in time, as we draw close to the return

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for which, as believers, we have waited nearly two millennia, our way should be—as St. Paul previsioned—blocked by the Jew. I shall not fatigue you by reciting the historical miscreancy of that people. To be sure, they did not by their natural proclivity and disposition disdain our Lord or impede the dissemination of his Word. What they opposed, what they denied, they did as if by the implanting of God. He who made hard the heart of Pharaoh that He might rescue His own, hardened also the heart of Israel, that she might wound and slay her savior and remain until the End a people adjudged and condemned.

"We care not that from that time until this the members of that small society of supernatural criminals became the wards, chattels, property of the realm to be fatted or starved, contained or expelled, indulged like children or murdered like men, according to our wishes. We did not count it a certainty throughout that long vigil of time that a day would come—as it has now—when the sweet air of the End would be in our nostrils. Throughout that vigil we threw down her altars, drove her sons forth, and slew her greybeards. Yet Osiris grows up from his own entrails, dies and returns, forever unto ever again, year by year. Israel cannot torture forth the last drop of His blood and we cannot destroy Israel. We are regenerated and so is she. Ah yes, God hardened her heart and God keeps that hardness resolute, congealed, obdurate, and though we kill, kill, kill, she is there again.

"But now as St. Paul foretold, the time of the last harvest is come, the gathering in of the gleaning of all our fields. There is one left, one from amid all the peoples of the earth, the last unbeliever, the last Jew.

"The world is reconstituted. The body of the New Adam, until this moment a nervous and puny thing, lying exhausted upon the straw pallet of the world, is healthy and intact, but for this tic in his cheek, this wart upon his thumb, this boil upon his thigh. This last Jew is the sole blemish of the new Adam.

"Having said this, let us counter our own argument. True, we are, in this Holy Church, the vicarage of God, conducting man through the treacherous narrows and shoals of his life, and it is we, with the timbrel of charity and the drum-roll of hell, who have brought all dissent to confess its folly before St. Peter's throne. But we, we, too, are mortal (whatever our virtues and our grace), and though we are already in the forecourt of the Kingdom we are as distant from the supernal throne as infinity and eternity. It is finally up to God. Would we save the world without God? We would not. We cannot. It is one thing to praise ourselves for having drawn together the appendages of the world, for having made of the disjected members of our species a single body, but without the breath of the spirit of what value is all this quantity—of what value is it that untouchables and princes, muzhiks and headhunters, know a bit of cathechism and cross themselves, of what value? No. No. The breath must be kissed into this dumb Adam.

"The Russian theologian, A. S. Khomiakov, told us in former times of the vitalities of *sobornost*. That noble amateur believed that a congregation of the faithful is numbered not by head count but by heartbeat. Not ten or a hundred or millions but two or three who speak the name of Jesus Christ in purity of heart. There—in that small bedraggled company—is the truth. We, by contrast, are confronted by the reverse of the situation of our Russian friend. We have, not two or three, but one, and this one, in palpable good faith, simplicity, clarity, says no, I decline. I confess only the old, wasted inheritance. And the New Adam remains blemished.

"WE HAVE a recourse. Let Don Rafael die. Now that would settle everything. A touch of poison, an overdose of pills. Done. An expeditious resolution. (I see some of you like that. Dear me. You do not understand.) Expeditious, but completely misguided. We may deceive men, but we cannot deceive God. No. We must proceed otherwise. We have already received (did you realize?) a petition from India with more than a million signatures calling for Don Rafael's speedy conversion. In America, cenacles of worshipers are dedicating around-the-clock prayers of the Blessed Sacrament importuning intercession that the heart of our impenitent be melted. And, last but not least, for here is the clue to our decision, the Japanese—remembering well the martyrdom of their own Jesuit missionaries and the veneration they now offer their relics—have asked that Don Rafael be brought to that island for a tour.

"They write, and I excerpt the letter of the Bishop of Kyoto: 'Most excellent Fathers, et cetera, et cetera, et cetera (here note), unbelievers in the past were employed by us as living examples to the faithful. By the witness of their materialism, errancy, and sensuality we demonstrated most graphically the virtues of the Faith. The evidence of the unbeliever was good for the believer. Now there are no more unbelievers, but the loss of unbelievers does not make believers perfect. Think not all Christians good Christians. Far from it. Et cetera and so forth. (Now, pay attention!) If, however, you would bring through our land that last unbeliever, parade him as our old lords paraded their captives through all the streets and let the faithful see with their eyes the damnation that awaits unregenerate sinners, it may revivify and cleanse their faith . . . and so forth.'

"You murmur approval. Splendid. Right. Put into the language of theological argument (for we will have to defend our course before the Holy Father) it is this. We are One but for one.

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We have all power—the power of unanimity. But the predicament of power is that it is mindless. The mountain is the raw totality of power, but it is the stubborn stupidity of Sisyphus that gives the power meaning. Our recalcitrant Jew—more than all the believers of Christendom—makes real the power of Christ. Don Rafael is the irritant that makes the Body of Christ move. He, my friends (forgive my ecstasy), perhaps even more than the return in glory which we await, is the harbinger of the Kingdom of God."

IT WAS decided then and there. Don Rafael would be displayed to all the world, toured, paraded, exhibited as a specimen, and at the conclusion of his international tour, returned to Rome, and there, during the hour following the last of the daily masses, brought caged into the square before St. Peter's and left—guarded to be sure—to be stared at and loathed by deputations of the faithful.

The tour proved miraculous.

In each land of the world a procession was organized and, in imitation of the custom of ancient Rome, the Cardinal or Bishop of the realm led the procession of penitents through the streets, his vestments gleaming in the sun or sparkling in the rain, and beside him, his hands cuffed, his legs hobbled, hopped the figure of Don Rafael Acosta, his body draped in rags, his face begrimed with ash, upon his head a dunce cap upon which was written in the language of that nation: The Last Jew. Somehow, Don Rafael survived. Although he was given little encouragement, an energy consecrated by will pressed him constantly back into life. His eyes blinded by dust, his flesh blistered with the wounds of rocks and the beatings of enthusiasts who broke the ranks of the police to switch him or punch his back, his legs a pulp of sore flesh, he was returned to Rome early in the fall of his captivity.

One morning, the week before Christmas, Don Rafael was brought in his cage into the square of St. Peter's. The bells tolled his appearance and a crowd of pilgrims surged and heaved to catch sight of him. Children sat on their fathers' shoulders, nuns trained their binoculars on him, others stood on camp chairs, straining for a glimpse. Within the cage, his head drooping upon his chest, his black beard falling in snarls, wild and untended upon his shirt front, Don Rafael shivered from the wind. He was feverish. At a moment before the hour of one, when the guards would return to draw away the cage and bring to an end the appearance of the day, Don Rafael commenced to speak. At first his words were soft, lifting upon the wind and flying upward, unheard and lost but to those few who had commanding position in front of him. But gradually the crowd grew silent and his voice took on the resonance of one who speaks to his fellow creatures:

"The time of my life comes to an end. I am still a young man, but my life is fulfilled. I did not think it so. I fought against death, but I can restrain it no longer. I have known this for some time now. It is hard to go on telling oneself that there will be a deliverance, waiting, waiting daily for some miraculous hand to reach down and release me from my misery, return me to my beloved Gerona, restore me to my friends and to my livelihood. How could it be, I thought, that God should not pity me and show me mercy? Who am I, I said to myself, but an ordinary man, extraordinarily unfortunate? Why should I be elected for such torment? I was not the first Jew. Why then should I be the last? I suffered all that I have suffered—all indignities and outrages—softly, without public tears (but do not think that I did not cry privately, cry and beg, and call to my mother and father for help—I did), certainly not with temper or anger. What would my anger have brought me? Your contempt, your jeering? I had no need of them. Were I to have railed against you, I would have died long before this, long before I could understand what makes you so hard and cruel, and God so silent. The two of these must be understood together, and now I understand them.

"I am an ordinary man, I have explained that. But I am an ordinary man with an unordinary quality. I am a Jew. Now that fact—being a Jew—could be ordinary, like being a man, but it would require that you permit it to be so. You have obliged us to be extraordinary by your will, and by your need for the exceptional and the bizarre. So much for you, but what about God? Why does He not rescue me? Why did He not rescue all of my brothers who, like me, have said 'no' to you? Why?

"I shall now tell you. Because he accepts your verdict. No. More than that. He decided upon it long before you did. He decided we were extraordinary from the very start, as witness all our prophets and teachers and visionaries. Why, then, rescue *us*? Rescue poor people. Rescue ordinary people. Save them, Lord, before us. To rescue us is to deny who we are.

"And now, do you know why Jesus died on the cross and was rejected by the Jews? It was because he asked of God, 'Lord, why have you forsaken me?' Had he not spoken these words he might well have died—no less died—but I will tell you something, all the Jews would have believed in him. 'He is surely a Messiah,' they would have said, because he says nothing, calls for nothing, asks for nothing. He knows that God is with him. I know that God is with me, now and forever. You are not yet saved, but I am ready to die."

Don Rafael Acosta closed his mouth and died. He died and was buried and in the aftermath of his death, there came those who believed he was their rescue and redeemer, and those people, like our beloved Don Rafael, were called Jews.

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The "Uninhibited, Robust, and Wide-Open" First Amendment

From "Sullivan" to the Pentagon Papers

Alexander M. Bickel

In 1964, the Supreme Court decided *New York Times Co.* v. *Sullivan*, an important and novel decision of great consequence in the law of the First Amendment.

Among other things, the Court declared the Sedition Act of 1798 unconstitutional, better than a century-and-a-half after its expiration. Justice delayed, but not denied.

In a more contemporary frame of mind, the Court reversed a judgment in a libel action granted by the Alabama courts to the Police Commissioner of Montgomery against the New York *Times*. The *Times* had printed some inaccurate statements about the Commissioner in a fund-raising advertisement for Dr. Martin Luther King, who in turn had run afoul of the Commissioner in the course of some demonstrations. The Court held that the First Amendment prevents a public official from recovering damages for a defamatory falsehood relating to his official conduct, unless he proves that the false statement about him was made with actual knowledge that it was false, or with reckless disregard of whether it was false or not; in other words, with malice. Such a rule, historically quite a new departure, was necessary, the Court said, in order to carry out "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open," and should be allowed to include even "vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."

To require that debate, however uninhibited, robust, wide-open, vehement, caustic, and unpleasantly sharp, be truthful in its factual assertions would dampen the vigor, and limit the variety, of public debate—certainly limit the variety. It would deprive First Amendment rights, said Justice Brennan for the Court, of necessary breathing space. Knowing that they might have to prove their assertions to a jury, would-be critics of official conduct might be deterred from making assertions they fully believed to be true. For we all know that few statements, however true, can be proved to a mathematical certainty; we know that juries exercise judgment, which is fallible and may be prejudiced, and that, in any event, trials are fearfully expensive. As a litigant, Judge Learned Hand once said, "I should dread a lawsuit beyond almost anything else short of sickness and death."

The lesson of *New York Times Co.* v. *Sullivan* —that the First Amendment guarantees the right to publish falsehood—was well-learned by a Republican Congressman who voted in the summer of 1971, quite rightly in my judgment, against a resolution that would have cited President Stanton of CBS for contempt of Congress for refusing to make available to Congress editorial matter used in connection with a broadcast called, "The Selling of the Pentagon." "The First Amendment," said the Congressman, perhaps unfairly but with acute appreciation of the constitutional position, "guarantees CBS the right to lie, and they exercise it frequently."

The date of the decision in *New York Times Co.* v. *Sullivan* is as interesting as its substance. To borrow the Court's phrase in *Sullivan*, only of late has the First Amendment played, as in *Sullivan*, an "uninhibited, robust, and wide-open" role in our law. And the total career, robust or otherwise, of the First Amendment as part of the law of the Constitution encompasses little more than half a century. Of course the First Amendment has been in the Constitution and has had pride of place in the Bill of Rights since 1791, so what we may think of as its admonitory career is quite long. But its legal career in court decisions is a matter, essentially, of the past half century.

In England and in the colonies in the 18th century, and in the United States in the administration of President John Adams, there was a great deal of turmoil and a great deal of legal maneuvering about freedom of speech, and more particularly of the press. This constitutes the background and the earliest environment of the First Amendment. But in England, and the more so in the United States, an easy and uncontested freedom of speech and of the press prevailed through the 19th century. During this period, the First Amendment was legally an unquestioned assumption.

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I have no wish to romanticize the 19th century. Locally, especially around the critical contradiction of slavery, there were infringements of freedom of speech. Abolitionist speakers were sometimes dealt with harshly by law in the South and in parts of Northern and Border states. And mobs and other private forces, abetted from time to time in informal fashion by public force, imposed their own episodic constraints, sometimes violently. So did one or another military commander in the Civil War and Reconstruction periods. But there were no systemic, and certainly no nationwide, legal constraints.

Government was, of course, altogether during this century very far from the ubiquitous presence that it is now. The late Zechariah Chafee, Jr., the first great scholar of the First Amendment, tells us that "the [then] prevailing doctrine of *laissez faire* was extended to the field of discussion. The outstanding representative of the liberty of the time was John Stuart Mill." It seemed "odd" to Chafee "to link together the legal restrictions on business and wealth enacted by collectivists at the opening of the 20th century and the Sedition laws enacted against collectivists" just about contemporaneously, after the long century of consensus and freedom. Yet Chafee recognized the common impulse behind the social and economic legislation and the restrictions on freedom of speech, both of which the 20th century ushered in. The impulse proceeded from social unrest. The movement for industrial justice disturbed the consensus, and gave rise to government action regulating industry on the one hand, and constricting freedom of speech and of the press on the other. Then followed judicial decisions testing the reach of the First Amendment.

Chafee thought it unfortunate that during the 19th century, "freedom of speech was a cherished tradition, but remained without specific [legal] content." In this we may consider that Chafee was mistaken. For law can never make us as secure as we are when we do not need it. Those freedoms which are neither challenged nor defined are the most secure. In this sense, for example, it is true that the American press was freer before it won its battle with the government over the Pentagon Papers in 1971 than after its victory. Before June 15, 1971, through the troubles of 1798, through one civil and two world wars, and other wars, there had never been an effort by the federal government to censor a newspaper by attempting to impose a restraint prior to publication, directly or in litigation. That spell was broken, and in a sense freedom was thus diminished.

But freedom was also extended in that the conditions in which government will not be allowed to restrain publication are now clearer and perhaps more stringent than they have been. We are, or at least we feel, freer when we feel no need to extend our freedom. The conflict and contention by which we extend freedom seem to mark, or at least to threaten, a contraction; and in truth they do, for they endanger an assumed freedom, which appeared limitless because its limits were untried. Appearance and reality are nearly one. We extend the legal reality of freedom at some cost in its limitless appearance. And the cost is real.

CHAFEE held that the First Amendment "protects two kinds of interest in speech. There is an individual interest, the need of many men to express their opinions on matters vital to them if life is to be worth living. . . ." Secondly, Chafee wrote, there is "a social interest in the attainment of truth, so that the country may not only adopt the wisest course of action but carry it out in the wisest way."

Now, the interest in truth of which Chafee spoke is not inconsistent with the First Amendment's protection of demonstrable falsehood, for as I have indicated, men may be deterred from speaking what they believe to be true because they may fear that it will be found to be false, or that the proof of its truth will be too expensive. Moreover, the individual interest that Chafee mentioned has its truth-seeking aspect. Yet the First Amendment does not operate solely or even chiefly to foster the quest for truth, unless we take the view that truth is entirely a product of the marketplace, and is definable as the perceptions of the majority of men, and not otherwise. The social interest that the First Amendment vindicates is rather, as Alexander Meiklejohn emphasized, the interest in the successful operation of the political process, so that the country may better be able to adopt the course of action that conforms to the wishes of the greatest number, whether or not it is wise or is founded in truth.

Discussion, the exchange of views, the ventilation of desires and demands—these are, of course, crucial to our politics. And so, for much the same reasons, is the effectiveness of the decisions reached by the political process, that is to say, the effectiveness of law embodying the wishes of the greatest number, or at any rate, of their chosen representatives. It would follow that the First Amendment should protect and indeed encourage speech so long as it serves to make the political process work—so long, that is, as it seeks to achieve objectives through the political process, by persuading a majority of voters; but *not* when it amounts to an effort to supplant, disrupt, or coerce the process, as by overthrowing the government, by rioting, or by other forms of violence; and *not* also when it constitutes a breach of an otherwise valid law, a violation of majority decisions embodied in law.

There would be considerably less of a problem with the First Amendment if we could distinguish with assurance between speech and con-

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duct, as the late Justice Black and Justice Douglas have sometimes tried to persuade us that we can. Only conduct, their argument has run, can overthrow the government, be violent, hurt someone or something. Speech cannot. That, however, is unfortunately not so.

Very little conduct that involves more than one person is possible without speech. Speech leads to it, merges into it, is necessary to it. That is the point of Holmes's famous metaphor: "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater, and causing a panic." It was Holmes also, in the course of a truly fervent defense of free speech, in the dissent in the *Gitlow* case, who said: "Every idea is an incitement. It offers itself for belief and if believed it is acted on unless some other belief outweighs it or some failure of energy stifles the movement at its birth."

There are, then, problems. I have mentioned two. One is the problem of speech which is not discussion forming part of the political process, but which is aimed at dispensing with it, or at a disruption of it, a coercion of it by violence. Second, there is the problem of speech which is aimed at, or otherwise involves, the violation of a valid law or procedure; speech that has no general purpose to supplant the political process, but that refuses to accept its operation or its outcome in a given instance. Here I have in mind counseling, or inciting to, disobedience of law—perfectly peaceable disobedience, but disobedience. I have in mind also speech or assembly that involves a breach of laws or procedures which safeguard the public peace and tranquility, or some other public interest; laws or procedures whose validity would not be questioned except as they are violated in the course of engaging in speech or assembly.

That aspect of the first problem—the problem with efforts to supplant or coerce the political process—which is embraced in the historic concept of seditious speech is dealt with, and perhaps solved as well as may be, by the clear-and-present danger test that Holmes formulated better than half a century ago. The solution is in terms of a judgment, as Holmes often liked to say, of proximity and degree: a pragmatic judgment, drawing a distinction between speech that carries a high risk of disruption, coercion, or violence, and speech that carries no, or less, risk. This judgment is generalized loosely into the clear-and-present-danger formula, under which speech is protected unless it constitutes, in the circumstances, an intentional incitement to imminent forbidden action.

SINCE it is perfectly true, as Holmes said, that every idea is an incitement, society would enjoy very little freedom of heated, passionate, or emotional discourse, or altogether of radical discussion, unless this distinction were drawn and enforced. Shortly before Holmes first formulated the clear-and-present-danger test, Judge Learned Hand wrote: "Detestation of existing policies is easily transformed into forcible resistance of the authority which puts them into execution, and it would be folly to disregard the causal relation between the two. Yet to assimilate agitation . . . with direct incitement to violent resistance is to disregard the tolerance of all methods of political agitation which in normal times is a safeguard of free government." Recently, in *Watts* v. *United States*, the Supreme Court dealt with an alleged violation of a statute making it a crime to threaten the life of the President. Watts had said at a public rally that he had been classified 1-A, and: "I am not going. If they ever make me carry a rifle, the first man I want to get is LBJ." The Court held that this was "political hyperbole" rather than intentional incitement, and could not form the basis of a criminal prosecution. Political speech, said the Court, is often "vituperative, abusive, inexact." Watts's pronouncement was no more than a crude and offensive statement of opposition to President Johnson.

The clear-and-present-danger test as originally formulated by Holmes also purported to solve the second of the problems I have mentioned—the problem of speech which does not incite to violence or any other coercion of the political process, but merely to the violation of an otherwise valid law or procedure. Our political process, however, is too dependent on registering intensity of feeling as well as majority wish, the former of which it cannot do through the ballot box; it has too many stages of decision-making before laws are ultimately held valid, and too many stages of law-formation which often render law provisional only; and on the other hand it results by now in a very pervasive government and makes numerous laws and regulations of vastly differing orders of importance—the process is, in sum, too complex, diverse, and resourceful to subsume an unvarying duty to obey all laws. Simple application of the clear-and-present-danger test to forbid all speech which constitutes an intentional incitement to break a law, or all speech which by itself or through its by-products, as in the form of assembly, or of marching, or of handing out leaflets, involves a breach of rules or procedures safeguarding an otherwise valid public interest, would be an anomalous and unrealistic result. It would rest on a snapshot of the political process that showed it as consisting of discussion and voting and nothing else. That is not the whole process, not nearly. It would not work if it were, it would not generate the necessary consent to government, and would not be stable. We cannot, therefore, as a society, be held to put that kind of store by the duty to obey.

Consequently, quite early, in *Whitney* v. *California*, Brandeis, with Holmes concurring, drew

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some further distinctions, and made occasion for additional judgments of proximity and degree. The fact that speech is likely to result in some violation of law was not enough, he said, to justify its suppression. "There must be the probability of serious injury to the state." And Brandeis gave a very interesting example, calling to mind an ancient and persistent form of civil disobedience: speech that creates an imminent danger of organized trespass on unenclosed, privately-owned land. It would be unconstitutional, he suggested, to prohibit such speech, despite the imminent danger it presented, because the harm to society which the prohibition would seek to avert would be "relatively trivial."

Subsequent cases have required government to show not merely a rational, otherwise valid, interest in support of a law or procedure that is endangered or actually violated by speech or by activity attending speech, but a "compelling interest." As the Court said in 1939, in *Schneider* v. *State,* when speech or assembly breaks or threatens to break a law, "the delicate and difficult task falls upon the courts to weigh the circumstances and to appraise the substantiality of the reasons advanced in support of" the law in question. Hence, the ultimate formulation of the clear-and-present-danger test, by Judge Learned Hand, is that the courts must ask "whether the gravity of the evil, discounted by its improbability, justifies such invasion of free speech as is necessary to avoid the danger."

The nature and gravity of the evil, its gravity as well as its proximity, thus form part of the judicial judgment. One may ask by what warrant courts decide that some valid laws passed by a legislature are less important than other ones, and may be endangered or disobeyed. Someone must, however, unless each and every legitimate but utterly trivial public interest is to prevail over the interest in what Meiklejohn called those activities of communication by which we govern. Hence courts do so decide. And we have thus built into the system a kind of domesticated form of civil disobedience.

It is this aspect of the First Amendment that the Pentagon Papers-New York *Times* case of 1971 illustrated and developed. The case can be viewed in another light, as I shall show. And it had other features. It was a prior restraint case. Prior restraints are traditionally disfavored—and in circumstances such as those of the Pentagon Papers publication, with very good reason—even where an attempt might be allowed to regulate the same sort of speech through the *in terrorem* effect of a subsequent sanction. Again, the case involved a question of statutory construction and a problem of the separation of powers. Passing these features, the essence of the government's complaint was that publication of the Pentagon Papers violated a public interest in the confidentiality of government documents, an interest which the executive order establishing the classification system, and also, the government contended, the Espionage Act were intended to safeguard. The Espionage Act raised the question of statutory construction to which I have referred, and the attempt to apply the executive order concerning classification of documents, not internally within the executive branch of government, but externally to private persons and entities gave rise to the problem of separation of powers. Assuming, however, that the government had prevailed on either or both of these points—assuming, that is, acceptance of the government's argument that the public interest in confidentiality of government documents was embodied in valid and applicable law, either in the executive order or in the Espionage Act or both—there remained the issue whether the given injury to this public interest was in the circumstances grave enough to justify a restriction on speech, or too trivial to justify it.

Justice Harlan took the position that the weighing of the gravity of the injury was in this instance not for the judges to undertake, because when the injury is to the nation's foreign relations, as it was plausibly alleged to be, judges should, he thought, simply accept the President's assessment of its gravity. The government did not really contend for this much, and no other Justice seemed prepared to concede it. Rather the government tried to persuade the judges themselves that the breach of confidentiality constituted, in the circumstances, a grave and not merely probable, but immediate injury. The injury was prolongation of the Vietnam war by providing the enemy with helpful information, and embarrassment to the United States in the conduct of diplomatic affairs.

Now, as to the war, there was a question of immediacy, and indeed of causal connection between publication and the feared injury. The discount for improbability was heavy. There was actually nothing more than a tendency, if that, and the bad-tendency test in seditious speech cases is precisely what the clear-and-present-danger doctrine displaced, as its very formulation indicates. It required a high probability instead. As to the claim of embarrassment in the conduct of diplomatic affairs, however, an immediate causal connection was reasonably clear. Here the gravity of the injury was squarely in issue. And it was held insufficient. The predilection for in-system civil disobedience prevailed.

The clear-and-present-danger doctrine, then, as it has evolved beyond its original formulation, makes room for what used to be called seditious speech, and for a measure of necessary in-system civil disobedience. It gives fair satisfaction, even though it places a bit more reliance in the discretion and prudence of judges than either voluptuaries of liberty or

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judicial conservatives find altogether comfortable. The underlying broad principle is that the First Amendment protects the political process, and a right of self-expression consistent with its requirements. But other, fundamental difficulties remain, which the clear-and-present-danger test rather tends to sweep under the rug. Obviously the political process is not what we pursue everywhere, for purposes of all decision-making, or always. There are times when we do not, and places where we do not, and times when the need for self-expression is also not a dominant interest. Equally obviously, not all the results that the political process might attain are acceptable.

Thus a criminal trial to a jury does not operate on the rules of the political process or as a forum for self-expression, and if a witness, therefore, should wish to recite some hearsay evidence to the jury, we stop him. We forbid him to speak. We might also, and we should, as Justice Black intimated, although in dissent, in *Cox* v. *Louisiana*, stop a speaker from assailing a trial by haranguing a crowd on the courthouse lawn while the trial is proceeding. "Government under law as ordained by our Constitution is too precious, too sacred," said Justice Black, "to be jeopardized by subjecting the courts to intimidatory practices that have been fatal to individual liberty and minority rights wherever such practices have been allowed to poison the streams of justice." What is meant by intimidatory practices is public opinion impinging too proximately and too directly on the trial. Only a year later, in 1966, in *Adderley* v. *Florida*, Justice Black, now in the majority, indicated that the grounds of a jail were also no place for free expression of views. The democratic political process is not the method by which we conduct trials, it is not what prevails within a jail or around it, and where it does not prevail, the First Amendment should not protect speech that in other circumstances would be protected. Faculties that just a few years ago felt embarrassed to exclude students from their deliberations might have remembered that. A university is also not governed by the democratic political process. And of course we recognize times when that process is suspended even in places where ordinarily it does rule. Hence curfews, hence martial law.

In approaching the other and greater difficulty —unacceptable results that the political process, with free speech as a principal component, might reach, or unacceptable acts that speech might counsel its hearers to engage in—one wants to be extremely careful not to be understood as following the teaching of Herbert Marcuse. But that does not mean that the problem shouldn't be stated and faced. Take, for example, the advocacy—not the intentional incitement, which the clear-and-present-danger test does allow us to reach—but the advocacy of genocide. Or, to recall what is more familiar, suppose, more minimally, a speech as in *Beauharnais* v. *Illinois*, decided in 1952, which urged the segregation of Negroes on the ground that they are all given to rape, robbery, knives, guns, and marijuana. Or the speech in *Brandenburg* v. *Ohio*, decided in 1969: "I believe the nigger should be returned to Africa, the Jew returned to Israel." Or the speech in a case of the early 1950's, *Kunz* v. *New York*: "All the garbage that didn't believe in Christ should have been burnt in the incinerators. It's a shame they all weren't." Or Jerry Rubin urging the young to go home and kill their parents, or other talk looking with favor on murder, rape, fire, and destruction.

Writing in *Kunz* v. *New York*, not long after his experience as prosecutor at the Nuremberg trials, the late Justice Robert H. Jackson said: "Essential freedoms are today threatened from without and within. It may become difficult to preserve here what a large part of the world has lost—the right to speak, even temperately, on matters vital to spirit and body. In such a setting, to blanket hateful and hate-stirring attacks on races and faiths under the protections for freedom of speech may be a noble innovation. On the other hand, it may be a quixotic tilt at windmills which belittles great principles of liberty. Only time can tell. But I incline to the latter view. . . ."

Passing for the moment the question whether there are greater dangers in trying to define and control the sort of speech I have been reciting than in risking that it will achieve the results it advocates, one may allow such speech on one of two premises: either the cynical premise that words don't matter, that they make nothing happen and are too trivial to bother with; or else on the premise taken by Justice Brandeis in *Whitney* v. *California* that "discussion affords ordinarily adequate protection against the dissemination of noxious doctrine."

As to the first premise, it is inconsistent with the idea of a First Amendment; if speech doesn't matter, we might as well suppress it, because it is sometimes a nuisance. As to the second, we have lived through too much to believe it. To be sure, Justice Brandeis adhered to the clear-and-present-danger test, and conceded, therefore, that in circumstances of emergent danger we can stop speech. But we know, as Justice Brandeis may have allowed himself to forget, that speech can attain unacceptable ends even if it does not have the qualities of incitement, and even if it comes from people who lack the intent to achieve those ends.

Disastrously, unacceptably noxious doctrine can prevail, and can be made to prevail by the most innocent sort of advocacy. Holmes recognized as much in the passage in the *Gitlow* dissent in which he said that every idea is an incitement. He went on: "Eloquence may set fire to

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reason." In the *Gitlow* case itself he saw neither incitement nor eloquence, and no chance of a present conflagration, no clear and present danger. Yet he did admit that all ideas were an incitement and that they carried the seed of future dangers as well as benefits. His answer was this: "If in the long run the beliefs expressed in proletarian dictatorship are destined to be accepted by the dominant forces of the community, the only meaning of free speech [*—the only—*] is that they should be given their chance and have their way."

If in the long run the belief, let us say, in genocide is destined to be accepted by the dominant forces of the community, the only meaning of free speech is that it should be given its chance and have its way. Do we believe that? Do we accept it?

Even speech which advocates no idea can have its consequences. It may inflict injury by its very utterance, as the Court said a generation ago, in the *Chaplinsky* case, of lewd or profane or fighting words. More, and equally important, it may create a climate, an environment in which conduct and actions that were not possible before become possible. It is from this point of view that the decision in the *Watts* case, in which the Court passed off as political hyperbole an expressed intention to shoot the President, is perhaps dubious. We have been listening for years now—the level of it in the universities is happily on the decline—to countless apocalyptic pronouncements and to filthy and violent rhetoric, and have dealt with them as speech, as statements of a position, of one side of an issue, to which we may respond by disagreeing, while necessarily accepting by implication the legitimacy of the statement, the right of the speaker to make it.

To listen to something on the assumption of the speaker's right to say it is to legitimate it. There is a story—I cannot vouch for its accuracy, but I found it plausible—of a crowd gathered in front of the ROTC building at a university some years ago. At this university, as elsewhere in this time, some members of the faculty and administration had undertaken to discharge the function of cardinal legate to the barbarians, going without the walls, every so often, to negotiate the sack of the city. On this occasion, with the best of intentions, members of the faculty joined the crowd and participated in discussing the question whether or not to set fire to the building. The faculty, I gather, took the negative, and I assume that none of the students arguing the affirmative could have been deemed guilty of inciting the crowd. The matter was ultimately voted upon, and the affirmative lost—narrowly. But the negative taken by the faculty was only one side of a debate which the faculty rendered legitimate by engaging in it. Where nothing is unspeakable, nothing is undoable.

This is also the problem with obscenity. The question about obscenity is not whether books get girls pregnant, or sexy or violent movies turn men to crime. To view it in this way is to try to shoehorn the obscenity problem into the clear-and-present-danger analysis, and the fit is a bad one. Books, let us assume, do not get girls pregnant; at any rate, there are plenty of other efficient causes of pregnancy, as of crime. We may assume further that it is right to protect privacy, and that we have no business, therefore, punishing anyone for amusing himself obscenely in his home. But the question is, should there be a right to obtain obscene books and pictures in the market, or to foregather in public places—discreet, but accessible to all—with others who share a taste for the obscene? To grant this right is to affect the world about the rest of us, and to impinge on other privacies and other interests, as those concerned with the theater in New York have found, apparently to their surprise. Perhaps each of us can, if he wishes, effectively avert the eye and stop the ear. Still, what is commonly read and seen and heard and done intrudes upon us all, wanted or not, for it constitutes our environment.

The problem is no different from that raised by the physical environment, or by indecent exposure, by boisterous drunkenness, rampant prostitution, or public love-making. Yet the same Supreme Court which during the past decade has decreed virtually unlimited permissiveness with regard to obscenity has not construed the Constitution so as to forbid the placing of legal restraints on architectural designs, for example, or on indecencies of public behavior. Nor is the Court very likely to tell us that fostering heterosexual marriage while not countenancing homosexual unions, which is what the legal order does, of course, is unconstitutional. The assigned reason is that the First Amendment throws special safeguards around speech and other forms of communication, which are relevant to obscenity, but does not protect conduct. But the point is absurd. There is no bright line between communication and conduct. The effect, in the segment of both that we are here considering, is surely the same. What is a live sex show, communication or conduct?

I STATE these problems without having a general solution to offer. They are uninhibited, robust, and intractable, although so far as obscenity, at least, is concerned, the Supreme Court could well have permitted some inhibitions of the robuster forms of it without needing to confront the ultimately intractable dilemma I shall pose presently. The argument for resolving these problems by extending protection to speech except as the clear-and-present-danger formula would authorize very limited suppression is stated by Holmes in the dissent in *Abrams* v. *New York*: "Persecution for the

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expression of opinions seems to me perfectly logical. If you have no doubt of your premises or your power and want a certain result with all your heart you naturally express your wishes in law and sweep away all opposition." To allow opposition by speech, Holmes continues, indicates either that you think the speech does not matter, or that you doubt your power or your premises. He goes on: "But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out." This is the point at which one asks whether the best test of the idea of proletarian dictatorship, or segregation, or genocide is really the marketplace, whether our experience has not taught us that even such ideas can get themselves accepted there, and that a marketplace without rules of civil discourse is no marketplace of ideas, but a bullring.

The theory of the truth of the marketplace, Holmes concluded, expressing one may believe more his own view than that of the Philadelphia Convention, "is the theory of our Constitution. It is an experiment, as all life is an experiment." But the theory of the truth of the marketplace, determined ultimately by a count of noses—this total relativism cannot be the theory of our Constitution, or there would be no Bill of Rights in it, and certainly no Supreme Court to enforce it. It amused Holmes to pretend that if his fellow citizens wanted to go to hell in a basket, he would help them. It was his job, he said. Sometimes he did, to be sure, and sometimes it was his job as a judge. But not his sole job, and not always. And Holmes knew that, too. He had what he called his "can't helps," and he knew that the framers of the Constitution had had theirs, and somewhere in the combination of his "can't helps"—of the framers', of his fellow judges', and of those of other leaders of opinion—were to be found the values of the society. If his fellow citizens wanted to consign these values to hell, perhaps they could do so, but it was not Holmes's job to help them.

"I do not know what is true," said Holmes. "I do not know the meaning of the universe." His biographer, the late Mark DeWolfe Howe, wondered whether our stomachs are "strong enough to accept the bitter pill which Holmes tendered us." They had better be, no doubt. We had better recognize how much a random confusion is human activity, and that there is no final validity to be claimed for our truths. If we allow ourselves to be engulfed in moral certitudes we will march to self-destruction from one Vietnam and one domestic revolution—sometimes Marcusean and often not—to another. But we do need, individually and as a society, some values, some belief in the foundations of our conduct, in order to make life bearable. If they, too, are lies, they are, as Holmes's great contemporary, Joseph Conrad, thought them, true lies; if illusions, then indispensable ones. To abandon them is to commit moral suicide.

YET whom are we to trust as the custodians and enforcers of those few beliefs which constitute the foundations of our conduct? Passing majorities of the moment? That is the marketplace, which the First Amendment may enjoin us to guard, but not to trust, certainly not to trust to govern access to itself. Whom then? Electorally irresponsible courts? It is one thing to rely on them to keep the marketplace open, another to permit them to close it, even though we do trust our courts to guard some values against majoritarian subversion. We have no answer to these questions, and that is the real reason why we prefer, so often, to err on the side of permissiveness. But we should know also that we err—on the right side, perhaps, but we err.

Actually, ambiguity and ambivalence, not the theory of the truth of the marketplace, as Holmes would have had us think, is, if not the theory, at any rate the condition of the First Amendment in the law of our Constitution. Nothing is more characteristic of the law of the First Amendment—not the rhetoric, but the actual law of it—than the Supreme Court's resourceful efforts to cushion rather than resolve clashes between the First Amendment and interests conflicting with it. The Court's chief concern has been with process, with procedural compromises (using the term in a large sense), and with accommodations that rely on the separation and diffusion of power. A great deal of freedom of speech can flourish in a democratic society which naturally shares, or accepts from its judges or other pastors, a minimal definition of the good, the beautiful, the true, and the properly civil. A great deal of freedom of speech can flourish as well, for a time, at any rate, in a society which accepts the proposition of bullring, or marketplace, truth. We are neither society. We have tended to resemble the latter, of late, and we have more freedom than the former might enjoy, and than we enjoyed in the 19th century, but we are actually more nearly the former. Freedom of speech, with us, is a compromise, an accommodation. There is nothing else it could be.

The devices of compromise and accommodation that are perhaps in commonest use go by the names of vagueness and overbreadth. The Court will not accept infringements on free speech by administrative or executive action, and if the infringement occurs pursuant to a

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statute, the Court will demand that the statute express the wish of the legislature in the clearest, most precise, and narrowest fashion possible. Essentially what the Court is exacting is assurance that the judgment that speech should be suppressed is that of the full, pluralist, open political process, not of someone down the line, representing only one or another particular segment of the society; and assurance that the judgment has been made closely and deliberately, with awareness of the consequences and with clear focus on the sort of speech that the legislature wished to suppress.

An accommodation relying on the diffusion and separation of powers is what the Pentagon Papers-New York *Times* case also amounts to in the end. Not long after the case was decided, in September 1971, the President invoked what is called executive privilege to deny to the Senate Foreign Relations Committee access to certain documents bearing on long-range plans for foreign military assistance. This was but one of numerous invocations of executive privilege, on the part of this and previous Presidents, and whatever the merits of this particular invocation of it, there is little doubt of the President's authority, in general, to safeguard the privacy of executive deliberations by classifying documents and withholding them from Congress, and of course from the public. Yet under the New York *Times* case, if a newspaper had got hold of these documents without itself participating in a theft of them, although somebody else might to its knowledge have stolen them, it could have published them with impunity. And if someone stole these documents and brought them to Senator Fulbright, he could use them, and read them on the floor of the Senate if he chose, thus making them public, and there would be no recourse against him because of the immunity the Constitution grants to members of Congress in respect of statements on the floor, or for the matter of that, in committee.

Now this, to say the least, is a paradox. The government is entitled to keep things private, but with few exceptions involving the highest probability of very grave consequences, it may not do so effectively. It is severely limited as to means, being restricted, by and large, to enforcing security at the source. Members of Congress as well as the press may publish materials that the government wishes to, and is entitled to, keep private. It is a disorderly situation surely. But if we ordered it, we would have to sacrifice one of two contending values—privacy or public discourse—which are ultimately irreconcilable. If we should let the government censor as well as withhold, that would be too much dangerous power, and too much privacy. If we should allow the government neither to censor nor to withhold, that would provide for too little privacy of decision-making, and too much power in the press and in Congress. So we are content with the pulling and hauling, because in it lies the maximum assurance of both privacy and freedom of information. Not full assurance of either, but maximum assurance of both.

Madison knew the secret of this disorderly system, indeed he invented it. The secret is the separation and balance of powers, men's ambition joined to the requirements of their office, so that they push those requirements to the limit, which in turn is set by the contrary requirements of another office, joined to the ambition of other men. This is not an arrangement whose justification is efficiency, logic, or clarity. Its justification is that it accommodates power to freedom and vice versa. It reconciles the irreconcilable.

Madison's conception of the separation and diffusion of powers was intra-governmental, but the First Amendment, as the Pentagon Papers case demonstrated, extends it beyond government, so that it prevails not only among the institutions of government, but also between them and the private sector. The First Amendment offers us no formula describing the degree of freedom of information that is consistent with necessary privacy of government decision-making. Rather as the Supreme Court applied it, it ordains an unruly contest between the press, whose office is freedom of information and whose ambition is joined to that office, and government, whose need is often the privacy of decision-making, and whose servants are ambitious to satisfy that need. This is not to say that we can get along without any restraint or self-discipline on the part of government and the press in the discharge of their respective offices and in the ambitious pursuit by each of its interest. Not at all. But it is the contest that serves the interest of society as a whole, which is identified neither with the interest of the government alone, nor of the press.

The upshot in our system is that a whole series of defensive procedural entrenchments and an obstacle course of the diffusion of powers and functions lie between the First Amendment and claims adverse to it. Hence the direct, ultimate confrontation is rare, and when it does occur, limited and manageable. We thus contrive to avoid most judgments that we do not know how to make.

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Indians and Other Americans

Carl N. Degler

IN THE confrontation between the American Indian and the white man over the course of the past three centuries, no single episode is more revealing or more devastating in its moral implications than the removal of the Cherokees from their ancestral lands in the 1830's. The phrase applied to the last stage of the removal, "trail of tears," sums up the price some six thousand Cherokees paid in being forcibly evicted from their homes in Georgia and Tennessee by the United States Army in order to make the trek in the dead of winter to the new Indian Territory in what is now Oklahoma.

Today the policy of removal, like the historical United States policy toward the Indian in general, is widely condemned as brutal, rapacious, and wrong. And it was brutal and rapacious, even by the standards of the time, for some contemporaries condemned it in much the same terms as modern critics have. But apart from the *way* the policy was carried out, was there any alternative to it? Two possibilities suggest themselves. The first is that the Cherokees, and by extension, Indians in general, ought to have been left undisturbed. The second is that they ought to have been absorbed or assimilated into American society. Examining each of these alternatives in turn will help us appreciate the special place which Indians occupy in the social history of the United States.

The argument that Indian culture ought to have been left undisturbed rests, at bottom, on the principle that any culture, however "primitive" or undeveloped it may be, deserves to survive because no culture is really superior to any other. This is the argument from cultural relativism. Although I am prepared to accept the principle, it is worth noting that it cuts both ways. Both Indian and white cultures deserve to exist. The idea of leaving the Indians undisturbed implies that the white Americans ought to have stopped short of the Appalachians or at the Mississippi or at some other line not defended by power. To expect this, however, is equivalent to asking white Americans to deny *their* cultural drives for land, wealth, and power while contending that the Indians should be protected in theirs. Moreover, no expanding people in history, whether in the New World, in Australia, in Africa, or in Siberia, has ever behaved any differently when confronted by a technologically weaker people. To say this is not to condone the ruthlessness and violence that have characterized European encounters with aboriginal peoples around the world, but it does make evident that there was nothing unique about the American treatment of the Indians.

The danger in this kind of argument, of course, is that it can justify almost any action taken by white men against Indians—or, for that matter, by any people against any other people or culture. And indeed it has been so used. But one can at least ask that a dominant culture accept the conquered on the same basis as it accepts its own members. This principle then brings us to the second possible alternative to the policy of removal. Could not the Indians have been absorbed, assimilated, or integrated into white society, rather than being forcibly removed and eventually herded onto reservations? Unlike the idea of leaving the Indians undisturbed, this alternative was actually tried and therefore we have some historical experience to use in thinking about it.

Here again the best approach is through the example of the Cherokees. Certainly if any Indian people could have "fitted" into white society, the Cherokees gave promise that they were such a people. A fierce and savage tribe in the middle of the 18th century, the Cherokees by the early years of the 19th century (not unlike the Japanese nation later, and also in response to the experience of being subjected to superior military and technological power) had undertaken to transform themselves into white men with red skins. They became farmers and cattle raisers, like their white neighbors. They put on white men's clothes and their leaders sent their sons to white men's schools. They bought and used black slaves in plantation agriculture just as the white Southerners did among whom they

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lived. They even took white men's names: among the Cherokee leaders of the early 19th century were John Ross, Elias Boudinot, and John Ridge. Their own genius, Sequoyah, invented an alphabet, thereby laying the basis of a literature for his people. In 1827 the Cherokees drew up a constitution for themselves, which was clearly modeled after that of the United States; it not only provided for a tripartite division of government and a bill of rights, but it also excluded blacks from voting and holding office.

Not all the Cherokees, to be sure, could read or write Sequoyah's new alphabet, nor did they all cultivate fields like white men or live in the manner of their leaders, some of whom were not only planters of wealth but men of high culture as well. Nevertheless, by the time white Georgians increased their pressure to enter Cherokee lands, especially after the discovery of gold there in 1829, the Cherokees were no longer a savage and unlettered people. They had demonstrated that Indians could follow the guidelines suggested to them by President Thomas Jefferson years before. "When once you have property," Jefferson had counseled, "you will want laws and magistrates to protect your property and person. . . . You will find that our laws are good for this purpose . . . You will unite yourself with us, form one people with us, and we shall all be Americans. . . ."

The question which Jefferson did not consider, apparently, was whether his fellow white Americans were prepared to carry out their part of his suggested policy. Where the Cherokees were concerned, as in earlier confrontations between Indians and whites, the answer was no, even though—in the Cherokee instance—the Indians had gone far in the direction Jefferson had advised. Generally speaking, at least until the 19th century, the whites treated the Indians as a separate people, to be pushed aside, deprived of their land, and excluded from society. Although many whites, particularly in Washington, defended the claims of the Cherokees, few were prepared to use force to protect Indians against white men—despite the fact that the white man's own laws and promises were on the side of the Indians. In short, the case of the Cherokees, with their herculean adjustment to white men's ways, is probably the most powerful evidence for contending that the blame for the failure to try assimilation as an alternative to removal should be placed primarily upon the whites.

But that is not the end of the story. For if the Cherokees are the best example of Indian adaptation to the culture of the white man, they also come close to being the only one; most Indian peoples did not want to become like white men. In fact, even the Cherokees, for all their remarkable adoption of the ways of white men, did not want to be integrated into white society. They still intended to live separately from whites, preferring for example to remain outside the jurisdiction of the state of Georgia.

This separatist attitude of the Indians is in marked contrast with the attitude of blacks, whose principal goal after slavery was to become an integral part of white society, as it had been for free Negroes during the era of slavery. Indians resisted the white man's education and his religion, as the missionaries found out on the early reservations even before the Civil War. The precise opposite was true of blacks. One of the dramatic developments of the Reconstruction period in the South was the enthusiasm with which the former slaves flocked to the schools that the Freedmen's Bureau and Northern philanthropists established after the war. Moreover, it was black eagerness for white men's education that was one of the strong forces behind the founding of the first free public schools in the Southern states during Reconstruction.

Resistant as Indians may have been toward the culture of the whites, their own culture, or cultures—for these ran the gamut from the most primitive, like that of the Shoshone of the Great Basin, to the highly developed, like the sedentary and organized societies of the Natchez of the lower Mississippi valley and of the Iroquois confederation of western New York—were by no means unchanging or static. A number of Indian cultures absorbed and creatively used a great many traits and technics not only from other Indian societies but from white culture as well. The cultural borrowings from whites ranged from tools and guns to horses and liquor. Some of these new technics the Indians quickly adapted to their own purposes; others—like alcohol—they failed to control. The horse is perhaps the most brilliant example of Indian borrowing. Prior to the arrival of the Spanish in the New World there were no horses in North America. Yet within a mere two hundred years the Indians worked out a whole new cultural pattern that centered on the horse and the bison, a pattern which most white Americans today erroneously think of as typically Indian and, equally erroneously, as having origins lost in the dim recesses of the past.

Nevertheless Indian cultures did resist assimilation to the culture of the whites, and they continued to resist even when, after the Civil War, the whites began to press systematically for Indian integration. This new policy toward the Indians was undoubtedly influenced by the fact that the debate over the future of the black man had concluded that Negroes would be citizens and would be granted the same rights and opportunities as other Americans. Indeed, among the figures in the early fight for Indian rights after the Civil War were old stalwarts of the anti-slavery crusade like Harriet Beecher Stowe,

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Lydia Maria Child, and Wendell Phillips. To such people it seemed evident that the proper place for the Indian—whose conquest was being completed just as slavery had also come to an end—was precisely that which had been written into the Constitution for blacks and long applied to immigrants.

The principle of assimilation was epitomized by a Commissioner of Indian Affairs in 1887 when speaking of the need for Indians to give up their native languages. "Instruction of Indians in the vernacular," he contended, "is not only of no use to them but is detrimental to the cause of education and civilization and will not be permitted in any Indian school over which government has any control. . . . It is believed that if any Indian vernacular is allowed to be taught by missionaries in schools on Indian reservations it will prejudice the pupil as well as his parents against the English language. . . . This language which is good enough for a white man or a black man ought to be good enough for the red man. . . . The impracticality, if not impossibility, of civilizing Indians of this country in any other tongue than our own would seem obvious."

PROBABLY the most extreme example of the effort to destroy Indian culture in the name of civilizing the Indian is encountered in the person and program of Captain Richard Henry Pratt. Significantly, Pratt came to the question of Indian assimilation from a prior experience with blacks. His first assignment in the United States Army was as an officer of a Negro regiment in the West, where he also first encountered Indians. In pursuit of a growing interest in working out ways of integrating Indians into American society, Pratt visited Hampton Institute in Virginia. Founded after the Civil War by Samuel Armstrong as a school for former slaves, Hampton was opened to Indians in the 1870's as a way of doing for them what was being done for blacks. Pratt soon came to disapprove of mixing blacks and Indians in the process of assimilation because he thought their problems were different. The most important need of the Indian, Pratt insisted, was greater contact with whites and their culture—something that Negroes had experienced all their lives under slavery. Once Indians and whites could see one another on a day-to-day basis, he was convinced, they would accept one another and separation between red and white would end. Years later Pratt summed up his purpose in the revealing remark that "it was surely only necessary to prove that Indians were like other people and could be as easily educated and developed industrially to secure the general adoption of my views. All immigrants," he went on, "were accepted and naturalized into our citizenship by that route and thus had a full fair chance to become assimilated with our people and our industries. Why not the Indian?" Pratt's concluding question defined the Indian issue for white Americans for almost a century.

The method that Pratt proposed became the famous Carlisle Indian School, which he set up under government auspices in southeastern Pennsylvania in 1879. Pratt cajoled Indian families to send, voluntarily, their sons and daughters to his school, with the understanding that the young people would be completely removed from contact with Indian culture. Not only would the school train them in white men's arts and language at a place far removed from the Indian reservations but the young Indians would also be boarded with white families over the summer.

Over the years several thousand Indians attended the Carlisle and other boarding schools subsequently established, and in demonstrating how quickly individual Indians could adopt white culture, these institutions were highly successful. Nor was there any difficulty in locating white families who would take in the young Indians as boarders; in fact, the demand for Indians always exceeded the supply. It is hard to imagine many white families volunteering to take in black children for purposes of socializing them. It is also often forgotten, in this same connection, that Andrew Jackson, despite his reputation as a hater of Indians, took an Indian orphan into his home to be raised as his son. So far as is known, he never took a black child into his home, though they were all around him in the slave quarters.

But the Carlisle Indian school was not the most important measure of the interest in the 1880's in assimilating Indians into white America. That honor belonged to the Dawes Act of 1887. Before the passage of the Dawes Act the movement to assimilate Indians had been unsystematic and largely unofficial. Under the new law the United States government itself embarked upon a deliberate policy of requiring assimilation by breaking up the reservations. Each household of Indians would be allotted 160 acres of land, which would become the property of the head of the family, thereby making him a landowner, like most other American farmers. Indians who obtained such allotments would also become citizens, like the former slaves.

Soon after the policy was implemented, its disastrous effects on the Indian became apparent. Through fraud, or trickery, or out of sheer ignorance of the law and economics, the Indians lost their lands at a prodigious rate. Those who managed to hold on to their land soon found it difficult, if not impossible, to make a decent living on the poor-quality and relatively small tracts allotted them by the government. And, of course, under the new policy government annuities ceased going to Indians who lived on the allotments, for the purpose of the policy was to

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put the Indian on his own. Not surprisingly, the Indian population of the country declined ominously and some experts began to talk of the "vanishing American."

Clear failure though it was, the policy of assimilation was not officially repudiated until 1934, when John Collier, a new chief of the Bureau of Indian Affairs, prevailed upon Congress to pass the Wheeler-Howard Act, which repealed the Dawes Act and inaugurated a new Indian policy. In the intervening forty-seven years almost two-thirds of Indian lands had passed into the hands of the whites, but Collier, under the authority of the new law, sought to reconstitute Indian culture on the reservations. Indian rituals and customs long discouraged, or even forbidden, were now permitted and encouraged; some of the Indian lands once lost were bought back. The Indian population began to grow, so that today there are about as many Indians in the country as there were when Europeans arrived in the 17th century.

Collier's efforts were widely praised by anthropologists and other experts here and in other countries, where aboriginal populations faced similar threats. Yet the existence of an unassimilated group in the midst of society was an anomaly to most Americans and to their government. Always there lurked the hope or expectation that the Indian would become, as blacks and immigrants had, a part of the going society. As Pratt had said, not in hostility but in friendship, "Why not the Indian?"

It is this persistent expectation which helps us understand why government policy toward Indians has fluctuated so widely since the days of the Indian wars. For the shift from separation to integration (the Dawes Act) and then back to separation with the Wheeler-Howard Act in 1934 was not the end of the story. In 1953 the Eisenhower administration once again changed policy. This new approach to the Indian, ominously called "termination," was not really new at all. It provided for the federal government to conclude its special relationship with the Indians by turning the reservations as quickly as possible over to the control of the states, which, it was anticipated, would then break them up and put the Indians on their own. As many anthropologists and Indians had warned, termination turned out to be no less disastrous than the Dawes Act before it. Where it was instituted the Indians lost their remaining lands and, when forced off the reservations, they were unprepared to compete with whites.

In consequence, policy was soon shifted once again 180 degrees. In July 1970 President Nixon announced the end of termination and a return to the preservation and encouragement of Indian life. He promised financial support for the development of economic enterprises that would make Indian communities truly viable; in 1971 he relinquished government control over the lands around Blue Lake, New Mexico, to the Taos Pueblo Indians, for whom the area had long been sacred; and an Indian was named as head of the Bureau of Indian Affairs.

These vacillations in policy over the last century have stemmed largely from the refusal of white Americans to recognize that the Indians are not like other minorities, and particularly not like the blacks with whom they have so often been misleadingly compared. Over the years, it is true, individual Indians have left the reservations and made their way into the surrounding society. Others have done so selectively, working outside the reservation for a time and then returning to their people. But the striking fact is that whenever the Indians have been able to express their preferences either in words or "with their feet," they have made it clear that they do not want to be integrated into American society. As recently as 1952 over 60 per cent of the Navajos—the largest single Indian group in the country—still did not speak English. Even among those tribes in which a much higher proportion speak English, it remains a second language. As the anthropologist Edward Spicer has pointed out in regard to the Indians of the Southwest under Spanish, American, and Mexican jurisdiction: "At the end of 430 years, it was clear that, despite intensification of communication among all the peoples of the region, through the adoption of common language and a great deal of cultural borrowing and interchange, most of the conquered people had retained their own sense of identity. Moreover, there was little or no ground for predicting that even by the end of half a millennium of contact the native peoples would have ceased to exist as identifiable ethnic groups."

Nor has this refusal been principally a response to hostility from white society. Although there are and always have been undoubted acts of discrimination against Indians, white society has, on the whole, long been willing to accept Indians socially and economically to a degree that stands in marked contrast to its attitude toward blacks. Today a white person with Indian ancestry, for example, will readily admit to that ancestry—perhaps even with a certain amount of pride. Rare, however, is the white person who will own to any African ancestry, for to do so is to assume all the social and economic burdens that blackness incurs in American society.

There is a perverse irony in American practice toward Indians and blacks. America has offered to Indians what blacks have long wanted but been denied, while insisting upon for blacks what Indians have wanted but which blacks reject. Or, put another way, Indians have had the choice of becoming white men with red skins or remaining Indians. Generally speaking, blacks

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have enjoyed no such choice, even in theory, for from the time of slavery they have been forced to be a part of white culture. (The culture of the ghetto is at most a subculture and not comparable to the distinct Indian cultures even of today.)

Indians, when confronted with the choice, have chosen to be red men. This is why Indians, unlike blacks, do not demand civil equality. For to do so would be to acknowledge that they are an integral part of the white man's culture. Indians have consistently shown that they want to be treated as red men only.

It is just that insistence upon difference that has been so difficult for white Americans to accept. Immigrants and Negroes have insisted only upon individual acceptance and economic opportunity, and in theory, if not in practice, the dominant culture has found no difficulty in agreeing to these demands. The Indian demand for separate existence simply has no antecedent or analogy in the American experience. White native Americans, it is true, have known of other colored peoples at various times in the past who were judged incapable of becoming "white men"—Negroes, Chinese, and Japanese, for example. Never before, however, have white Americans encountered people who *refused* the opportunity to become Americans.

Perhaps because this refusal constitutes a blow to the national pride, white Americans have stubbornly continued to believe that Indians would eventually consent to become like them. Even a modern liberal organization like the Fund for the Republic has been unable to shake off the idea that the traditional approach to minorities in the United States must also be the proper one for Indians. On the opening page of the study *The Indian: America's Unfinished Business,* which the Fund financed and published in 1966, the goal was described as "making the Indian a self-respecting and useful American citizen. This policy involves restoring his pride of origin and faith in himself after years of crippling dependence on the federal government and arousing his desire to share in the advantages of modern civilization." Significantly, the last chapter of the study is devoted to "Policies Which Impede Indian Assimilation."

WHAT are the implications for national policy of this recognition that Indians bear no real analogy to other social groups in the United States? The principal conclusion, it would seem, is to abandon the idea of making Indians over into white men with red skins. The right of *individual* Indians to leave the reservation and compete in the world outside should of course be retained. But it is time for other Americans to give up, once and for all, the expectation that somehow, in some way, at some time, the Indians in general will be absorbed into white society. The question should no longer be, "Why not the Indian?" but rather, "Why cannot the Indian remain an Indian?" Starting from where they are now, deciding their own future course of economic action, Indians ought to be helped to work out a way of life for themselves as separate communities within the larger American society.

If that policy can be carried out then the United States will have embarked upon an experiment in pluralism rare in the history of European expansion. Few modern governments have undertaken to protect and nurture a technologically weaker culture for the indefinite future. In America the basis of pluralism has been acceptance by the minority of the principal or central values of the society, with their differences from the majority remaining confined to relatively minor values or cultural traits. Thus Poles, or Irish Catholics, or Jews can be recognized as different in some habits and practices from the dominant culture, but at the same time the dominant culture assumes that each of the minorities will eventually learn English, participate in the standard occupations of the society, and live in a style that fits into an industrial and urban social order.

A special place for the Indian in American pluralism is justified by the fact that none of the forces or influences which have made assimilation an acceptable goal for other minorties are operative for him. Unlike any other minority, Indians did not come here voluntarily with a ready-made commitment to assimilation; unlike blacks, Indians have preferred to maintain a way of life distinct from the way of the whites.

A special place for Indians in American pluralism is justified, too, by the many treaties of recognition and support that white America so solemnly entered into with Indians over the years and then broke. For unlike any other social group in American history, Indians were promised support and encouragement in return for having given up their lands to European invaders. To accept Indianness as a social fact and as a part of American pluralism is but to acknowledge the debt that was incurred when one culture encountered another and pushed it aside. It is futile today to make a moral judgment of that epic clash of cultures; within the cultural context of the 19th century, let alone the 17th, that conflict does not seem to have been avoidable. Today, however, the Indians pose no threat, military or otherwise, to the dominant white culture. And certainly they no longer possess any large amounts of wealth that can further excite the cupidity of others.

In short, by recognizing what the past reveals to us about Indians and their culture, we are in a position to transcend our own history, and to recognize, in policy as well as in theory, that "the only good Indian" is a real Indian, not a white man with red skin.

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Summer of '72

Dorothy Rabinowitz

One comes to this scrubby pine place without large misgivings, despite the fact that the immediate environment is flat and ugly, the house set back on a territory matted by nature's rubble. From the latter, a small forest has been extorted; short, shadeless trees line the area in front of the house. The architect has designed it imaginatively so that a tree obtrudes from a hole cut in the middle of the sun porch, a shootless, baseless tree whose cones glare down on the wooden floor. One comes, nevertheless, with a high heart to see a new place, and even here, where the prevailing aesthetic runs to meanness, one has the excuse that the houses and their territory are only way stations—the real quarters are the beaches, the real life day upon day lying in the sun at the bays and the ocean a mile or two away. But of course, the prevailing aesthetic means something and—so it seems to me—it prevails. It is a summer resort in the Northeast celebrated for its very rawness, its dunes, beaches, and shorelines protected now by the national conservation agency which has bought up large amounts of property to keep it from turning commercial. But I, who want nature always to be lush, who hate the ocean and to whom jagged sand cliffs, leafless trees, and receding waves bespeak only desolation, find myself here a few weeks, nevertheless, visiting an old college acquaintance. Hardly a friend, yet the acquaintanceship is genial, one in which our dogs thrive. His is sluggish and impersonal, a large, pointlessly attractive hound who moves only as a last measure to avoid the blows of the child in the house; mine, a cool fastidious type, yet the sort who could sense at once that her fortunes were not about to take an upward turn with her entry into this place.

Without so much as looking around, she goes to her corner of the bedroom and almost immediately develops the hives which absorb her for the rest of her stay, along with the daily necessity of outsmarting the child. There are several people staying here for a few weeks, and there is the usual haphazardness of friends coming and going in these summer arrangements. One of them has a child of four who screams the better part of the time he is awake. He has, it appears, no other children to play with, and in the sole company of adults he has learned to render what their speech sounds like to him. It sounds like shouts strung together, undulating whoops of noise, wild, eye-rolling cackles—that is what he gives back to us.

The first night promises to be *gemütlich*, or so it is planned. Since I am new, I have little to do with the cocktail-party arrangements—in a sense, they are for me too—and so I cannot avoid staying. I would prefer to avoid it and go to bed (but that has always been an inclination I have had to fight while others have cut the cheese squares) and to meet the local society in my own time. I have reason; the arguments of strangers are raw, for lack of that temporizing quality which even the slightest familiarity affords, and full of bitter disappointments. For every strange face that seems hopeful one has yet to hear what it believes. I have learned that the news will not be good most of the time. The uncommitted face of the stranger has a short life, and deserves to be cherished while it lives.

The house, in any event, has its full complement of hands ready with the cheeseboard. One, a history professor (female) from New York, shows me a new cocktail-party delicacy. It is sliced raw zucchini with salt, which she arranges so that its plainness is set off to splendid advantage against the dark wood of the bowl. She is a small, mid-thirtyish woman who showers a sparkling, concerned look on all that her eyes take in. During the school year, she concentrates on Black-American literature, which is her specialty, but this summer she is carrying for her pleasure-reading the work of an Ibo novelist. But she reads fitfully, her attention divided between the two main athletic interests here, tennis and swimming, at both of which she works hard and faithfully, and for which she informs the worst days on the courts, the cloudiest beaches, with a vigorous enterprise. A good tennis player, on her fifth day here she beat a literature professor (male) and raced home angrily. He had apologized to her because his game was off that day.

"Why couldn't he say I beat him fair and square because I was the better tennis player? Why do men do that whenever a woman beats them?"

It was the only time she voiced a grievance; her complaints were small, and seldom uttered. Now, concerned with showing us how to cut and season raw zucchini, she takes the knife and salt from my host and explains the procedure in a gentle voice. He is irritated with her generally; she is here as the friend of a friend and she tends, out of her concern, to show everyone how to do things. He is forbidden by the innocence of her intentions, and her pleasant air,

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DOROTHY RABINOWITZ's *previous articles include "Agony in the Clubhouse: A Portrait of the Reform Democrats" (June) as well as portraits of "The Advocate" (March 1971), "The Activist Cleric" (September 1970), and "The Radicalized Professor" (July 1970). Miss Rabinowitz is the author of* The Other Jews *and co-author of* Home Life.

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from losing his temper with her.

The child, Jason, is put to bed with trouble. The guests arrive: some English professors, another history professor (male), a husband and wife psychology team, some lawyers, and from somewhere, a Dean of Women. A woman writer arrives. It is a political year and they are absorbed by the conventions and the candidates, but these are all Jews and, inevitably, the Jewish Question comes up. The woman writer, whose large, vague eyes, one notices early, perform inharmoniously with the rest of her, shifts in her chair as she speaks. She needs action of this sort. Her voice, a tremulous construction of thrusts and withdrawals, invites uneasiness; one depends more on gasps and movements for her meaning than upon her words. "My daughters hate the idea of Israel. I mean, they're disgusted by the idea of Jewish nationalism and they have no use for Israel. Terrible," she shudders, "this Chosen People business. You have to admit there's something not . . . very *admirable* . . . about Jews that way. I mean . . . what kind of nonsense, they were *chosen* to be in Israel?"

Though no one has asked her what her daughters think about Israel, the company takes it up as a natural matter for their discussion. She has recently published a book and there are those in the room who have published nothing at all.

"Mine too," the history professor (male) replies. "My daughters feel the same way." He is a tall, grave-faced man whose solemnity gives him a judicious air.

"But *my* daughters didn't get any of that opinion from some fashionable New Left position, they saw it by themselves," the large-eyed woman says with pride.

"Well, mine did too," affirms the professor with a whisper of defiance in his voice.

The history teacher (female) consumes the Brie in quick bites; she likes discussions but without unpleasantness. Heads turn to a corner of the room. "There's no way out, you have to end the oppression of minorities in this country," a literature professor exclaims, "the power structure can use them and squeeze them to death for just so long—blacks, Puerto Ricans, Chicanos, women."

"Did you forget somebody?"

"I did not, I was coming to them—Catholics, Wasps, working people," says the professor, a lanky mustachioed man who squats agilely on the floor. "I include every minority, everybody who's had the screws put to them in this country."

"Jews too?"

"Yes . . . all right, but why single out Jews?"

At the beginning of a bad time one has no idea of the way it will be. Engagement comes upon engagement but—except for the temporizing which the familiar provides—they exist one at a time and we are powerless not to see each one fresh: as though we had not seen its selfsame fiber the hour before. We are compelled to feel every instance, every variety, every reassertion of the thing we loathe, despite the trouble it would save us not to do so. It is a hopeless effort in any event, despite the constant exercise of controls we learned from the time we were young; in its ruder forms, the admonitions to "take things from whence they come." That constant effort tells more about us than its lack of success, that effort to diminish the weight of our antagonists by identifying and expecting. Knowledge is power; if enmity doesn't catch you by surprise, the worst has not been done, says the spirit.

THE days are long here. There are no country smells, no smells of any kind. On the beach, the child, Jason, has thrown a rock down on the head of another little boy and blood pours. Jason then makes his escape up a dune and looks stubbornly from his perch, prepared to stay. The mother of the bloodied child, along with Jason's mother and everyone else in the group, beckon to him that he is forgiven for the accident. He makes no move, for it was no accident, he meant the direct hit on Adam's skull. Frightened, urgently aware of the facts, the child retreats higher up the dune, away from them.

But they are not a menacing group to anyone. The history professor (female) straddles the open hamper with her legs, her Ibo novel turned face down. She is dispensing the melon slices and the faithful raw zucchini. The history professor (male) must stop panting from a touch football game in the sand before he can light his pipe. The football has thwacked into his stomach a half-dozen times and a half-dozen times he has held onto it.

"I *must* go in."

Swimming is a daily imperative here, a good if you will. The water is freezing, the waves assaultive; but it is there. To deny going in for comfort's sake is simply not in their style. The daughter of the history professor (male) —a dark, chunky version of himself—appears. She is the subject of much admiration here because her summers—she is nineteen—are spent baking bread and selling it to the local stores. Everyone has bought some of her rough, French loaves, the dark, honey-grained twists. She and one of the other teen-age girls here provide most of the intelligence on the food preservatives that are making us all ill.

Up on the dune, the child bides his time. A quarter of a mile away, the nude beach begins. By unspoken agreement with the township, an area has been reserved for naked bathers. There, a dozen or so men, all evidently homosexuals, sun themselves to get an even tan. The history professor (female) and one of the girls shuck off their bathing suits.

"God, there's nothing like it," they report when they come back.

"It's funny," the history professor (female) says urgently, "once you go without it, it's like not swimming at *all* when you have to put a suit on." Jason creeps back to the circle on the beach, casting cold eyes on his victim.

In the evenings, a lot of food is consumed, charcoal-broiled feasts on the porch. Because there is a television set, people drift in and out, watching the chess match, or the Olympics. Between times, there are discussions. There is a civil-rights lawyer here who has been active in trying to reform the penal system for years, and who

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has given up private practice to devote himself to justice for his black clients. The history professor (male) informs him and us over cocktails that there were great numbers of Jewish criminals during the period of immigration.

"I mean, this crap that Jews are more law-abiding and educated; you just have to look back into history when *they* were being absorbed into society, a *tremendous* number of criminals."

"No different from anybody," agrees the history professor (female).

"No different. . . ."

"All people. . . ."

"People are people."

"The same."

One man beseeches our understanding. A radio producer in his late thirties, the son of German-Jewish refugees from the Nazis, his story was that there were good SS men too. He arrived at this conclusion, he explained, when his father told him that their neighbor, the wife of an SS man, left a chocolate bar under their door the night before they had to flee.

"It was that big," he stood up suddenly, to show us the size of the chocolate bar, the token of old dreams. He had been an infant then, his parents had told him the story. They fled from country to country, ending finally in Brazil where, impoverished, they settled for the war's duration.

"Who do you think cut off our electric service when we couldn't pay the bill? A Jew, a Jewish electrician." His sad extrapolation from history was that circumstances and war can make murderers of all men.

"It behooves the Jews to stand guard against the Eichmann in themselves. I say, before you accuse the Eichmanns, look in your own heart, look at your behavior today. I say any Jew could be an Eichmann."

There are murmurs. Has he gone too far. . . . Eichmann? His recital has been agitated. The child sets up a howl.

"Listen. . . . All I say is, today is today, and I have to guard against the Eichmann in myself. That's why we should sacrifice a little, why I'm in favor of job quotas, I refuse to be Eichmann."

The history professor (male) sucks his pipe and avers that, certainly, the Germans were not alone in their crimes against humanity. Murmurs of disquiet in the room turn easier.

"The Japanese," someone cites. "Didn't we separate the Japanese and put them in internment camps?

"The Japanese, the Indians."

Good, be thou my evil, says the spirit of the times.

A psychologist contributes: if he had only one job, and a black and a Jew came before him to seek it, he would have to give the job to the black man.

"But I would want that Jew to go away from me with some *understanding* of his heritage and experience, and why this had to be."

The two history professors (male and female) nod; not quite the form they would have endorsed, but at heart, correct.

"A tear," one of them speaks up finally, "is more important than a fact." They all understand him.

"The thing is," a literature professor explains, "Jews are different from other peoples. They have a special experience, a history of compassion. Compassion," he says with some warmth, "has actually been the *raison d'être* of Jewish life."

"That's what makes them different," says the history professor (male).

"Their obligations are different."

"Like no other people."

"Special wisdom."

The Olympics drone on. People are waiting for the swimming matches to begin, so that they can catch a glimpse of Mark Spitz, the handsome swimmer from California who is Jewish and who looks as though he will take all the gold medals. But one of the company is troubled, unfinished.

"Listen, let me tell you about job quotas, it's not a simple thing for anybody," the literature professor says. "If there had been unfair quotas *in favor* of the Jews when they tried to immigrate here in 1939, we could have saved millions from Hitler. You see, you can kill a man by denying him job opportunities just as much as by bullets and gas chambers," he explains patiently. But the company has had enough of serious talk for the night, and he is saying nothing they cannot figure out for themselves.

Any social grouping tells us more than we care to know about the larger culture. I was to read in the New York *Times*, some weeks later, an elaborate, troubled letter which confessed that the writer had stood by and watched a woodchuck slaughtered, had stood by and watched millions of Vietnamese slaughtered, and to both of these crimes, he pleaded guilty. A few days later, Anthony Lewis, in the same pages, would compare the killing of inmates and guards at Attica with the Israeli army's move, after Munich, against the terrorist bases in Lebanon. It was —it is—a habit of mind to which no parallel is strange; a temper certain only of its commitment to good is not inclined to scant on the infinite possibilities of moral reflection.

One understands—as though it were a new idea—that people of like minds come together in communities. Here is a rich assortment of Jews, of varied histories and backgrounds, all of whom have converged, by reason of their place in society (the academic and the professional class), on the same understanding of their ancestry:

a) Jews are no different from any other people.

b) Jews have a special obligation to be compassionate.

Habits of mind take their character from the larger personal arrangements of one's life. Here are Jews who wish more than anything to transcend being Jews. The *Zeitgeist* has not been inimical to them; the political and social climate has produced the very language for their transcendence. Their arrangement, of course, is with the prevailing orthodoxy of their milieu, which accepts it as a good that all human experience be perceived as one, that every history be perceived as having its counterpart elsewhere, that all tragedy has its parallel. One hears it in their chosen metaphors, offered in tones in which there is always an extraordinary mixture of relief and vivacity, particularly in the presence of talk which

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threatens to require claims of a special nature. One feels almost palpably their discomfort at having to endure such claims, their pleasure when diversion comes, invariably in the form of parallels. ("Only connect," wrote E. M. Forster, and had he lived to see this day, he might have thought twice about conferring that wisdom upon us.)

THE days seem shorter. Finally, it is time to go. On the last weekend, the members of the household are busy packing. It is a large house and those who rented it are planning to hire a woman to clean it before the owner sees the havoc. My host's dog has clawed his own entrance from the screen door, and no amount of patchwork can keep him from his convenience. A decent-sized hole has been burned on the sun-porch floor where the charcoal dropped. Dozens of people have stayed here at a time, and the house shows it. Once, the Dean of Women arranges for her friends—a psychiatrist, his wife, and their three boys—to stay for a few days. They camp in the living room in sleeping bags. The mother of the history professor (female) comes, a lively schoolteacher who regales us at length, and with infinite patience, with the details of her jewelry purchases around the world. The Dean's sister and her teen-age daughter come. All of the company there is assembled on the night of the Republican Convention. The teen-agers dance for glee at the sight of the Republicans. The adults are more somber.

"Those faces," the civil-rights lawyer shudders, as the camera zeros in on the dazed, old delegates.

But they are gone now. The cleaning woman is called. On this last weekend, a heavy rain—the only one of the season—falls. A wonderful downpour comes from the roof into the living room and the bedrooms, and into the fireplace, where the wood is ruined. It is a brand new house, yet it requires every pot and bucket now to catch the torrents of water. Everything is soaked and everyone unhappy, but I, who know that nature's lushness has been called down, at last, like a plague upon our house, am content.

Revisiting the New Critics

David Bromwich

THE New Criticism grew up in the 1930's alongside the "socially committed" criticism which used to be thought of as its rival but which it has, by now, long outlived. It began to flourish in a serious way in the postwar decade, when its leading exponents gained ascendancy in English departments which, in their turn, offered new courses not in particular poets but in understanding poetry. One could not read this or that poet until one had learned to read poetry in general. Those were the years when back issues of the little reviews were to be seen lining the shelves of every respectable academic, and Kenneth Koch, in a cheerful anarchist poem, reflected that the only consequence of setting fire to the *Hudson Review* offices might be that "One ends up in prison with trial subscriptions/ To the *Partisan, Sewanee,* and *Kenyon Review*!" It may be that things are a little mellower now. John Crowe Ransom and Cleanth Brooks, at any rate, have entered the peculiarly courtly and mellow old age of Southern gentlemen, their writing is even gentler than it has been, and there is evidently less need for the polemical edge in their pronouncements; so that their two most recent books,* coming very late in the history of the New Critical enterprise, can provide the occasion for a backward glance at the achievement of the New Critics as a group.

Though the phrase "new criticism" was very much in the air during the years following the publication of "The Waste Land"—no doubt meaning a great many different things to different people—it was brought into currency definitely, I believe, by Ransom's book *The New Criticism*. There he spoke of the findings, and the apparently new way of finding, of a company of critics that included R. P. Blackmur, Yvor Winters, I. A. Richards, William Empson—and the one archcritic to whom the Americans in this group especially paid homage, T. S. Eliot. (Indeed, it is probably best to remove the British names from this list. Richards has only rarely made use of the faculty of "close reading" associated with the New Critics, and Empson is too thoroughly an original to belong to any group. On the other hand, a book like F. R. Leavis's *Revaluation* seems to have been written almost wholly under Eliot's influence, and presents something of a puzzle to the reader who does not know how intoxicating that influence could be.) The points of method and doctrine that separated these critics from one another are in danger of being forgotten, but are worth remembering: Blackmur, with his allegiance to Dante, his indifference to the Romantics, his alternately opaque and idiomatic style, and his insistence that a poem contain matter sufficiently serious for a critic's pondering; Winters, with his steadily committed moralism, his continual awareness of and revulsion from the Romantics, his dedicated efforts to bring modern poetry to the drawing board and expose once and forever its nonsensicalities of syntax and sentiment; finally Brooks, with his famous "pouncing" (Ransom's word) on the central paradox of a poem, and Ransom himself, with his longing for a more philosophical criticism that might adequately distinguish poetry from other types of verbal discourse. Obviously, differences in manner among the New Critics are also differences in matter. It is the

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* *Beating the Bushes: Selected Essays 1941-1970,* by John Crowe Ransom, New Directions, 176 pp., $7.95; *A Shaping Joy: Studies in the Writer's Craft,* by Cleanth Brooks, Harcourt Brace Jovanovich, 393 pp., $7.95.

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old unity of form and content about which the New Criticism itself has had so much to say. Yet whatever separates them from time to time, these critics do at last belong together, for in their emphasis on the texture of the literary object, and in their patient demonstration that the minutest gestures of a creating mind represent the deepest sense of what that mind is, they brought about a small revolution in the teaching and the reading of literature.

The New Critics are at their happiest in dealing with the shorter literary forms, the lyric poem in particular. This special strength of their approach has been noticed often enough, but it will bear remarking here once again since it is also, surely, a weakness. Thus, if we consider for a moment the case of Ransom, that lovely writer, which of his critical observations are the ones that stay most permanently in a reader's mind? That Milton mourns for Lycidas "with a very technical piety"; that Shakespeare's sonnets are "a field of imagery in which the explorer has performed too prodigiously, and lost his chart," and of the performance in one sonnet, that "it is my impression that our poet is faking"; that "there is often in Hardy's poems the visible quaint rightness of a workman going by the rules": all these are epigrammatic and authoritative in the manner of great criticism, and never mind that half of them are wrong. But notice, in passing, that they all have to do with lyric poetry. To discussion of Milton's *Paradise Lost* and Wordsworth's *The Prelude* the New Critics have had notably little to contribute, and, as one variety of politically-minded critic might say, it is no accident that this should be so. The reason for the deficiency of New Critical labor on certain subjects is not, however, really political, despite all the attacks on the group for its political conservatism. It is rather a cultural deficiency attributable to the revolt against Romanticism, the revolt which Eliot led, or thought he was leading, to such tonic effect, but which has turned out to have some deadening side-effects.

I do not like to be abrupt to critics who are themselves so circumspect, but the truth is that the New Critics cared very little for the Romantics and understood them hardly at all. Their objections to Shelley, for example, were made largely on grounds of decorum, and one thing about criticism based on decorum is that it prevents the critic even from knowing his enemy. The greatest difficulty of Romantic poetry is that reading it, and reading any single Romantic poet, is a cumulative experience that depends on slowly accumulated understanding. More than other poets, the Romantic likes to define his own terms, so that in a quite immediate sense it is not enough for a reader of Wordsworth or Blake or Wallace Stevens to know how to read poetry in general. It is strange to think of Robert Lowell saying "all my poems are in a sense one poem," but to hear a Romantic say this would not be puzzling in the least. The work of a Romantic poet is continuous, and tends in any case toward the longer forms: the poems of Heaven, and Hell, and Life. And about such poems, about *Paradise Lost* and all that came after it, the New Critics have been inhibited from saying much of lasting value. At this point in a consideration of the group, however, individual features begin to seem fairly important. One remembers that Blackmur slipped worse than anyone else on the *pons asinorum* of modern criticism—reducing private speech to public speech—when he condemned as nonsense a certain poem by Stevens, "Disillusionment at Ten O'Clock," which to a sympathetic reader seems a perfectly lucid comic gem. And one remembers that Winters was the one man who did after all know his enemy. Perhaps, too, this is the time to say a few words about the new collections by Ransom and Brooks, which I shall begin by recommending without hesitation, to be read as all new books by good critics or good books by New Critics should be read.

THE Ransom and Brooks ways of proceeding with a poem could scarcely be more sharply at odds, even though in their cultural background, according to Ransom, the two "were about as like as two peas from the same pod." Brooks has a simple and reliable trick. He finds the particular current of imagery that runs down the middle of the object at hand, discovers for himself what tensions it generates, how tone and speaking voice alter to fit the progress of the work, and then hands everything back to the reader, whole and enriched. *The Well Wrought Urn* is now regarded as a rather staid and sober book, yet it must be, by any fair estimate, one of the most unusual works of criticism ever written. For consider its plan: a series of texts issuing from vastly differing periods and sensibilities is presented to the reader complete with Brooks's commentary, and it is assumed that the right mode of analysis for each text will be pretty much the same. Of course, the illumination is constant; but it is not always of the kind most suitable to its object. One tendency of Brooks's criticism is that its view of the text as, above all else, a balanced and delicate thing, discourages the impulse to note imperfections, the irritable reaching after fact and reason, which *is* one of the critic's functions. In short, it discourages a reader from finding things wrong when once the sanctity of a work has been established.

Brooks's procedure works astonishingly well on certain occasions—one recalls the essay on *Macbeth* in *The Well Wrought Urn*, which leaves no reader quite as it found him—but it can never give a satisfactory account of those texts in which a good part of the appeal stems precisely from their failure to resolve every tension. Wordsworth's Immortality Ode has always seemed to me the great instance of this, though other readers may wish to supply their own. At all events, there are a few distinct moments in the criticism of Brooks and Ransom when the contrast between them, as one might imagine it, is quite extreme. Commenting on Marvell's "To His Coy Mistress," Ransom wonders about the shift from "thou" to "you" within the space of a few lines, and concludes that the poet is hedging for euphony. Brooks would blanch at the suggestion. He would say that the poet, obviously, has grown

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rapidly less familiar because he wants to lead the lady slowly to his outrageous proposal. And for myself, I should probably side with Brooks, so imperceptibly have his tricks of reading become my own. But then, Ransom is himself a poet, and an exquisite one, perhaps not so very far removed from the type of Marvell, and he may be looking at the practice of a fellow versifier with a properly jaundiced respect.

IN the present collection, Brooks will be found doing close analyses in the well-worn style on passages from Milton, Wordsworth, and others, making points which are certainly useful, though in a limited way. Of these exercises it is fair to say that when you have called them "good in detail," you have paid them the highest possible compliment. It was never fair to say of the New Critics that they were anti-historical: Brooks's debate with Douglas Bush some years ago, in which he scored highly by using historical evidence, too, in detail, should have got rid of that charge for all time. But no amount of qualification on Brooks's part will dispose of a perhaps less serious charge, that the New Critics were and are essentially microscopic in their readings. They are. And, unfortunately, the microscope is bound sooner or later to restrict a critic's range of vision. Brooks has been an editor of Milton, and writes well about him, and it is not until one looks into the writings of other Milton critics—even the satanic critic William Empson—that one realizes how much of that poet's world is missing from his discussion. Similarly with the essays on more or less contemporary, broadly cultural subjects: he keeps an even balance—remarking the danger of the Hemingway-Mailer phenomenon, when the man begins to compete with his art, and arguing for a less precariously close relation of the artist to his public—and manages, really, to preserve such a clear, bright, sensible tone on the large issues that only a fool would care to find fault. There is lacking only some of the exhilaration that comes from reading Harold Rosenberg or Northrop Frye, critics who remain more fully and nervously alive to the society around them.

AS FOR Ransom, it would be merely ungrateful to chide him for not keeping up with the news. *Beating the Bushes* reprints some very old pieces; it has a dated look—there is even a review of Max Eastman's *The Enjoyment of Poetry*; but altogether, the effect of this author's personality is winning. The typical Ransom essay is greater than its occasion, overtly philosophical or generalizing, slightly rambling, ready on a moment's notice to swoop down upon the literary object from a great height. Actually, he belongs to the New Critical group only as an honorary member. His early disdain for Eliot (later recanted), his wariness in the face of a modern poetry that could imitate the traditional touchstones without the traditional coherence that led up to them, even his hesitation before the uniformity of Brooks's critical method (as in the essay, "Why Critics Don't Go Mad"), are perhaps nothing more than recalcitrant interludes, but they express a conservatism of the surest and subtlest kind. Ransom has always been a convinced Kantian: the poet was not made to be "useful," he supplies no information, his discoveries do not follow any of the rules available to a positivist. And critics who try to elicit information from a poem are asking for social significance, under one guise or another. They are Hegelians; or maybe—Ransom says this in his more surly moods—just "fiction critics." A writer like Ransom could not, even if he wanted to, contribute to the fortification of old prejudices and stock responses which is, sadly, part of the program within any critical school. His admiration for Hardy is visibly right, but among the New Critics it makes him look, if I may say so, a little quaint. He is consistent with the group, however, in turning his own deaf ear to the Romantics, and at this point one is brought back to the rewriting of literary history for which the New Critics bear responsibility. The metaphysical poets are their heroes, the Romantics, on the whole, their villains. "Our age rejoices in having recovered Donne," Brooks notes, "but in doing so we have recovered not just Donne's poetry, but poetry." And it is this feature of the New Criticism that may, finally, come to seem stultifying.

As a rule, the New Critics like a poet best if he is metaphysical, or if he can be made to sound metaphysical, as in the case of Milton or Yeats. What such a preference distorts most of all is their taste in modern poetry. R. P. Blackmur is representative of a whole school of criticism when he writes, in "Lord Tennyson's Scissors," that Hardy and Frost will at last go down as secondary writers, to be read in light of the larger achievement of Yeats and Eliot and Pound. Or again, that the name of Wallace Stevens needs to be invoked only "so that we may more richly hear Yeats, Eliot, and Pound," because Stevens is "full of syllables where the others are full of words." It will be seen that criticism of this kind is rather intensely concerned with the *ranking* of poets. Perhaps this is a necessary concern of every school of criticism. But in any case, the verdict of time about Eliot and Pound has not been at all what Blackmur thought it would be, and the best answer to his strictures is probably the one Stevens offers in "The Creations of Sound":

Tell X that speech is not dirty silence
Clarified. It is silence made still dirtier.
It is more than an intimation for the ear.

He lacks this venerable complication.
His poems are not of the second part of life.
They do not make the visible a little hard

To see nor, reverberating, eke out the mind
On peculiar horns, themselves eked out
By the spontaneous particulars of sound.

By "X" here Stevens surely means Eliot: the phrases about dirty silence make an unsolemn reference to Eliot's nightingale in "The Waste Land"—saying " 'Jug jug' to dirty

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ears"—and Stevens's poem, in a general way, persuades one that its urbane sarcasm is the only possible tone to adopt under the circumstances. It is a minor poem for Stevens but it is a great moral, even a critical, response to Eliot's kind of poetry, and its significance extends far beyond the respective rankings of these two poets.

THE revolt against Romanticism has not been a very great success. Even Prufrock, poor man, is a stunted Byronic growth, with all of the old desires and none of the energies, and the man who created him seems not to have numbered irony among his fundamental poetic impulses. Eliot's fall into Christian piety looks perfectly logical when once he has been understood as a butt-end Romantic. His master, Pound, derives ultimately from Walt Whitman, and in his greatest poetry sounds as naive as a baby. Together, Eliot and Pound are the leading public poets of our age, while the private voices, roughly, are Blackmur's secondary names. At the height of the New Critical era this would have been a surprising thing to say, but the taste of the New Critics has, I think, lost its old influence, though the Brooks-Warren method of textual analysis has passed into the language. One might speculate that Winters will last best of all the group, because of his independence: he, at any rate, did not like Eliot and did not recant. But it is the failure of all these critics that they could not explain the characteristic poetry of their time, which spoke in a private tongue. When Brooks asks somewhere what the phrase "liar's quinsy" can mean in one of Auden's poems, the fact is that he cannot know until he knows Auden: it is a special tag from the days of Auden's enthusiasm for Homer Lane. And it is private. For the most part, poets of our age have not been able to follow Eliot in striking a neurasthenic public pose. It leaves too little time for the poetry. The richness and dirtiness of a single imagined world find their way into the greatest modern poetry, which is private rather than esoteric, and which belongs to the second part of life.

Movies

Holding the Horses

William S. Pechter

I'D VERY much like to like John Huston's new film, and, to judge by many of the reviews, so would a lot of other people. It makes a nice story with a happy ending were Huston, after all these years of wandering in the Continental wilderness, to return to the American scene and the world of those down-and-outers who populate his early films, and to create a work which is the earlier films' equal; but wishing won't make it so. And I like *The Maltese Falcon* and *The Asphalt Jungle* too much to want to say they are no better than *Fat City*.

Not that *Fat City* hasn't some virtues of its own, the virtues, if somewhat diminished, of the Leonard Gardner novel which its author has adapted to the screen. By and large the film seems truthful, in a dogged, journalistic way, in its depiction of its seedy milieu of the fringes of professional prize fighting in Stockton, California, on a level so impoverished that a single pair of bloodied trunks is passed on from a boxer who's left the ring to another about to enter. And the two principal characters, an alcoholic fighter trying for a comeback after a year-and-a-half off, and a young protégé of his just starting out in a career that seems no more promising, are knowingly drawn and played. (The older fighter wins his comeback bout against an opponent who, unknown to him, is physically ill—"Did I get knocked out?" he asks dazedly after his victory—but, immediately after, he slips back into alcoholic disintegration.) Yet somehow it all isn't as good as it should be. After a nice pre-credit montage of the Stockton setting, one starts to wonder what became of it. In the main role of the older boxer, Stacy Keach gives an intelligently worked out performance, but fails to hold the screen as a Brando (who was Huston's first choice for the part) could; nature isn't fair in its selection of movie actors—handsomeness certainly isn't the issue—and, to judge from the few film appearances of his I've seen, it may be that Stacy Keach's talents really aren't well-served by the camera. Conrad Hall's characteristically tricky photography—with its fancy focal adjustments and sudden shifts in lighting—is perhaps the film's biggest mistake, as it would be a mistake for any serious work; the movie bounces back and forth between shadowy, underlit interiors and glaringly overexposed, desaturated street scenes like a yo-yo. But perhaps most subtly destructive of all is the attitude of the director to his subject: serious, yes, but also faintly condescending, with its slight but insistent invitation to us to keep our distance, whether one of pitying amusement (perhaps inevitable in scenes of long garrulous drunken conversations) or outright pathos. It's Huston's world all right, but he seems to have become a tourist in it.

If there's a film *Fat City* reminds me of, it's not one of Huston's own but *The Last Picture Show*, and not just because of the presence in both of Jeff Bridges and the Country-Western music on the soundtrack. (I think I can do without twanging guitars as deceptively sunny accompaniment to somber drama and *know* I can do without Kris Kristofferson's groaning for the rest of my life.) Both films have a studied, self-conscious quality which finally robs them of any greater resonance; they remain little films not so much from modest intentions as out of a cramping calculation. What *Fat City* is finally like most is an art-house version of a Huston film,

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rather like one of those espresso versions of Hitchcock by Chabrol: an artful imitation by someone who's mastered all—but only—the mechanics. There was more real sense of the charged ambience of early Huston in a basically silly film like *The Kremlin Letter* than in all of *Fat City*'s grim earnestness. (Only one scene—of a young black fighter working himself up with some bellicose language in the dressing room before going out in the ring and losing—captures the old drive.) In reviewing *The Kremlin Letter*,* I mentioned Huston's defensive comment, when *The Kremlin Letter* was sneak-previewed at a showing of *Butch Cassidy and the Sundance Kid*, that he thought his film suffered in comparison with the other (now, for *Fat City*, he's acquired *Butch Cassidy*'s photographer). But recently, in an interview, Huston said that, though he knows he's made some recent films which are inexcusable, one he likes, despite his feeling himself alone in this, is *The Kremlin Letter*. In a way, I find more grounds for hope about Huston in that remark than in *Fat City*.

BETWEEN making *The Wild Bunch* and *Straw Dogs*, Sam Peckinpah made another film, *The Ballad of Cable Hogue*, which has understandably tended to get overlooked in the furor provoked by the two more explosive works. *The Ballad of Cable Hogue* was a likable film, but also a rather lame one, with a jejune attempt to milk a comic sequence for laughs by shooting it in fast motion, and a typically stagey performance by Jason Robards. Yet even if I didn't care for the film, I respected the way it held fast to the twin themes of Peckinpah's previous work: the closing of the frontier; the violence of American life, and ambivalence of our attitudes to that violence. In the end, the desert-rat protagonist of *Cable Hogue* is run over and killed in his own shrinking desert by an early-model automobile.

With *Straw Dogs*, Peckinpah took the single theme of violence perhaps as far as he could go with it, and now, as if freed by that, has made a film, *Junior Bonner*, as sweet-tempered as the earlier film was savage. Its eponymous protagonist —J.R. he's also called—is the son of a faded rodeo star, Ace Bonner, and a fading rodeo star himself, who drives his weather-beaten white Cadillac into his home town of Prescott, Arizona, for a few days and stays just long enough to take part in the annual rodeo which is staged there in the diminishing space among mobile homes. He sees his family (his parents, separated but still emotionally bound to each other, his brother, the local trailer-tycoon), has a brief affair with a girl he meets, and wins a rodeo event by staying on a ferocious Brahma bull longer than eight seconds. Nothing much happens, except that some people, the place they inhabit, and the quality of their lives are brought vividly before us. Which is to say that everything happens. At the end, as in a good novel, one feels one has known and lived with some people through a time in their lives the moments of which crystallize into a definition of who and what they are.

Junior is driven to win the rodeo event by pride and his need to test himself, but, though he's broke, the prize money goes to stake his father in the latter's scheme of gold-prospecting in Australia, a last frontier. Before the rodeo, during an affectionately observed parade, Junior and Ace ride off to sit together at a small deserted railway station, talking and reminiscing, and Ace tries then to borrow the money he needs to go to Australia. Junior tells him he hasn't got the money, and, in a moment of angry disappointment, Ace knocks his son's hat off onto the tracks; a moment later, as Ace goes to retrieve it, a through-train passes between them, and Junior averts his eyes and winces, fearful that his father may be nearer the end of his rope than he'd taken him to be. (Shortly after, Ace jokes with Junior, and, in a lovely fleeting moment, exchanges a word and look with him full of their shared acknowledgment of how little their schemes amount to.) Curly, the businessman-son, had paid for Ace's last prospecting venture, buying (cheap) some land on which the family's memory-filled old home had stood to clear it for development, but he has no further patience with his father's schemes, and refuses to give him anything more now than an allowance. "I don't want you to turn out like the old man," Curly tells Junior, offering him a job. "You know less about those wide open spaces than I do. You're just some kind of motel cowboy." And later, "I'm workin' on my first million, and you're still workin' on eight seconds."

YET if the film's sympathies lie chiefly with Ace and Junior (and with Junior's mother, whom Ace has more or less abandoned to Curly's well-meaning plan of setting her up in a model home and curio shop), Curly isn't caricatured; nor is his wife, whom we see snap at the mother ("Mom, do you have to smoke while you're feeding our baby?") across an edgy family supper table. For they are all family—and loving, however estranged from each other by irreconcilable cross-purposes. And it is the sense of family even more than of rodeo which permeates the film, from its larger confrontations to such small, unerring details as the way Junior's mother feeds him on his return home without a word about food passing between them, or the way he clasps her hand as they sit at the kitchen table. If there's one central scene in the film, it's not Junior's win in the rodeo contest but an extraordinarily delicate scene of leave-taking, filled with sharp reproach and tender regret, between Ace and his wife. And though Junior isn't in the scene, so much of the father is in the son that one feels it to be somehow a prevision of Junior's life as well, if he will ever have even this much of a family to walk away from.

Junior wins the rodeo event, but his wins have been fewer and fewer, and one feels there aren't many more in his future. Yet the film isn't really about winning, or losing, least of all losing in that rather metaphysical sense which hangs so oppressively over *Fat City*, and turns even a boxer's actual victory in the ring into another bleak defeat. (In the rodeo, Ace and Ju-

* COMMENTARY, November 1970.

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nior enter the comic wild-cow-milking event as a team, and, finishing first, lose only because Ace trips and falls with his bottle of milk on his way to the judges. "We could've won," Ace says disgustedly. "We did," Junior tells him.) Rather it's about making do, the rarely victorious but sometimes heroic business of living. "If this world's all for the winners, what's for the losers?" Ace asks at one point, and Junior replies, "Well, somebody's got to hold the horses." I'm not sure I wouldn't prefer this left unsaid, yet, if the scenarist, Jeb Rosebrook, is responsible for those few things in the film I might have wished different (I believe I heard Junior twice speak of going down his own road, which would be twice too often for my tastes), he is surely responsible also for much in the film which is extremely fine. And though I've spoken in the past about Peckinpah's ability to impress his visual style on the work of a variety of photographers, Lucien Ballard does make a difference; this is probably the best- looking American film—in its heightened drama of light and shade and color—since *The Wild Bunch*. But what is distinctively Peckinpah's own (beyond the look and feel and texture of the film) is the way it's been put together.

That one can probably see the film without even being conscious of its editing is to some extent a measure of Peckinpah's achievement. For what Peckinpah has done is to create a profusely edited style in which, despite the shimmering mosaic effect, there is no sense of narrative fragmentation, and, as much as in the long-take cinema of Renoir, the sense of an integral world seen wholly and of a wealth of detail available to the eye without coercion; that coercion—visual and emotional—which for me somewhat mars the sequence of the flash cuts of the rape imposed on the scene of the church social in *Straw Dogs*, the passage in Peckinpah's work where my admiration for his brilliance probably runs coldest. (Generally, though I find *Straw Dogs* tremendously exciting, I like it less than I do *Ride the High Country* and *The Wild Bunch*.) Watch, on the other hand, the narrative fluency of the split-screen sequence beneath the credits in *Junior Bonner*, or the unobtrusive incorporation of such details as the business with Ace's dog snapping at Junior's heels when the dog's tied up near Junior's horse on the rodeo grounds. Even more so than did the more assertively edited *Straw Dogs*, *Junior Bonner* provokes me to wonder whether anyone making narrative films has ever edited film more beautifully than Peckinpah. Yet I wouldn't want to isolate this accomplishment, or artificially draw distinctions about my unified sense of *Junior Bonner* as being at once beautifully made and beautifully felt: rowdy and sad, a film which lives, breathes, and richly fills a space. I've seen a good many American films I've enjoyed and admired during the past ten years, a surprising number of them recently, but perhaps no more than half a dozen I'd want to live with, to see again and again with the passage of time. Sam Peckinpah has made at least three of these. *Junior Bonner* is one of them.

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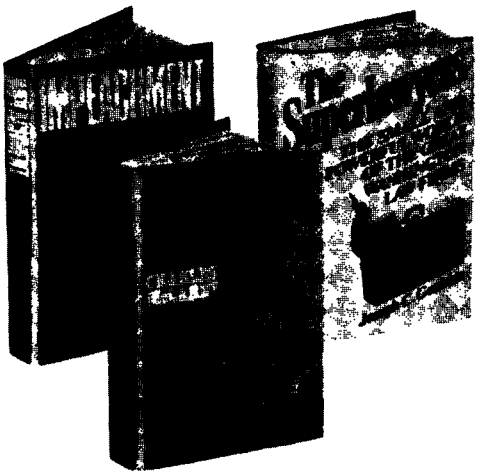

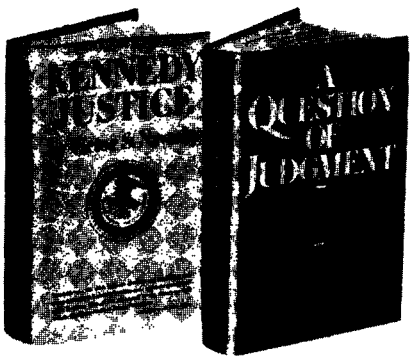

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Life under Communism

THE ROSA LUXEMBURG CONTRACEPTIVES COOPERATIVE. By LEOPOLD TYRMAND. *Macmillan. 287 pp. $5.95.*

Reviewed by ADAM B. ULAM

GIVEN the social and cultural atmosphere of the times, it is likely that some people will dismiss this hardhitting broadside, aimed at the inanities and oppressions of Communist society, with a bored shrug ("So what else is new?"). Others may even be moved to indignant outrage ("Is this the proper time to carry on about such things? What about the horrors of our own society, the destruction of the environment, the oppression of minorities? Etc., etc."). Leopold Tyrmand, a distinguished émigré Polish novelist, has been living in the United States for some time now, but from the evidence at hand it would seem that he has not yet learned the trick of making a critique of Communism palatable to the Western intelligentsia. For instance, there is not a single sentence in his book beginning, "We in the West, for our part, are far from blameless," no reassuring hint of the traumas that are common to *all* post-industrial societies, no yearning glance at the freedom-loving peoples of the Third World. Reading Tyrmand, we seem to be back in the 50's; the Gulf of Tonkin incident might just as well never have happened, and Herbert Marcuse never have been born.

Surely Mr. Tyrmand's "anachronistic" attitudes are not the product of ignorance. He has written for some of America's leading (and liberal) magazines and presumably he has read the work of his fellow contributors. So if he ventures where intellectuals this side of the *National Review* and Henry Regnery fear to tread, it is because he writes from the heart and in anger. To be sure, his passion often leads him into oversimplification and crudity, but at the same time it renders his testimony much more valuable than if he had dressed it up in the more fashionable sociological profundities of the moment.

The message is simple: life under Communism is awful—and it doesn't matter whether the Communism in question is of the pre-Stalin, post-Stalin, or "humanistic" variety. Though Tyrmand does not say so explicitly, he clearly implies that this would be the case even had the main architects of present-day Communism been not Stalin and Khrushchev but George Lukács and Antonio Gramsci. For the outstanding characteristic of Communist society is not its terror but its contrived boredom, harnessed to an incredible inefficiency in matters having to do with the individual's, as opposed to the state's, needs. The average citizen in a Communist society, both as thinker and consumer, is subjected to constant indignities and chicaneries. If he wants to keep his head above water, he cannot afford the luxury of quiet, to say nothing of violent, exasperation. Instead, he must feign enthusiastic acceptance of the bleak reality which surrounds him.

MR. TYRMAND writes out of his post-World War II experience in Poland. Hence he does not fully comprehend—and this is perhaps the most depressing reflection of all—how sometimes the acceptance of a particular Communist regime can in fact be *genuinely* enthusiastic. Had he lived through the Stalinist period in Russia, he might, it is fair to surmise, have welcomed the Khrushchev era as one that brought an intoxicating infusion of freedom. (Only an unusually sophisticated, or cynical, or, in any case, aging Soviet citizen in 1956 could have made the remark preserved for posterity in Nadezhda Mandelstam's *Hope Against Hope*: "Thank God we are now almost as well off as we were before the Revolution.") Writing as he does from the perspective of a society only recently subsumed by Communism, Mr. Tyrmand often fails to appreciate those elements of Communist doctrine and practice which are at once its most attractive and, to us, its most disturbing points.

IN Poland, Communism has been almost entirely an artificial, imposed growth. Were the threat of Soviet intervention to disappear entirely, Communism in Poland would not have to be overthrown—it would vanish overnight. But in the Soviet Union, over the course of two generations, Communism has become so inextricably blended with Russian nationalism as to form part of the national culture. The average Russian suffers, in Tyrmand's words, from "the indignities and inanities of life in a Marxist society" no less, and possibly more, than the average Pole or Czech. Still, for the most part, he can criticize this society only in its own idiom. Mr. Tyrmand's failure to see this results in a rather serious oversimplification. Communism is to him, without qualification, a gigantic con game. Of that undeniable existential quality, which, when combined with genuine emotion, enables the Communist doctrine to stir men's hearts and minds, he says not a word.

It is when people are supposed to live under it as a system, rather than fight for it as an ideal, that Communism reveals its appalling shortcomings. Yet even then Communism may offer psychological compensation for the practical inconveniences and irritations that it imposes on its victims. The Soviet citizen may be unhappy about the restrictions on his freedom and he may grumble about the shortages of consumer goods, but un-

ADAM B. ULAM, *professor of government at Harvard, is the author of, among other works,* The Bolsheviks *and* The Fall of the American University.

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like the average citizen of a democracy he is relieved of the mental burden of worrying about what proportion of the national budget, for instance, should go to defense.

Mr. Tyrmand's anger also leads him to be unfair in appraising the post-Stalin phenomenon of what might be called the loyal dissenter. People who operate within the allowable limits of dissent in Communist society are his special *bête noire*—more so, it would seem, than the all-out zealots and conformists. He is caustic about the readiness of many in the West to grant "fighter-for-freedom" status to those Polish and Czech bureaucrats and intellectuals who, Stalinists when Stalinism was in flower, liberal Communists when that was the fashion, suddenly find themselves victims of persecution or exiles at the latest twist of the dialectic; he reserves a special disdain in this connection for Yevtushenko and Ilya Ehrenburg.

Mr. Tyrmand's moralistic fervor, admirable enough in the abstract, gets the better of him here. In the area of social reform, trimmers and opportunists sometimes contribute as much as, if not more than, martyrs and idealists, and it would be foolish to deny that, whatever their personal motivation and whatever their status as writers, Ehrenburg and Yevtushenko have exerted a positive influence on the tone of Soviet cultural life. It is also not impossible for an erstwhile Stalinist to undergo a genuine conversion; witness Alexander Dubcek. When it comes to considering the complexities of life and conscience in a Communist society, the first rule is to try to understand before judging. In this very unliberal world, those who hope to exercise a civilizing influence cannot afford any variant of the Lenin-Stalin stance: "Who is not with us is against us."

By the same token, however, we must be grateful for the occasional unvarnished testimony of the bleakness of the Communist reality. For too many Western intellectuals, this reality has become obscured, on the one hand by the cataclysmic vision of a Zamyatin or an Orwell, and on the other by the glowing accounts of experts and casual travelers alike who report on the abundance of goods in the Budapest stores or the undying devotion of 800 million Chinese to communal living and Chairman Mao. Little enough is published that would enable a Western reader to get a feeling of the everyday drama and comedy of life under Communism, and it is the particular merit of Tyrmand's honest and angry book that to a considerable degree it succeeds in doing just that.

Founding Father

ARTHUR RUPPIN: MEMOIRS, DIARIES, LETTERS. Edited by ALEX BEIN. Afterword by MOSHE DAYAN. *Herzl Press. 332 pp. $6.95.*

Reviewed by BEN HALPERN

ALEX BEIN, the editor of this volume, holds that, in the roster of heroes who created Israel, Arthur Ruppin was one of four major personalities who were "the symbol or expression of an entire era." He stands between Theodor Herzl and Chaim Weizmann in a series that ended in victory with David Ben-Gurion. If so, Ruppin best expresses one cardinal characteristic of the Zionist enterprise: the obscurity and apparent insignificance of the efforts by which Israel was built.

Zionism is one of those movements that has been treated by liberal and cultured opinion with sovereign neglect, benign or otherwise. In the case of an undoubtedly charismatic personality like Herzl, a policy of *Todtschweigen*, of "ignoring to death," was deliberately adopted by liberal Jews as a prophylactic method to stifle at birth an obnoxious and possibly dangerous, reactionary development. The leading Central European newspaper, *Die Neue Freie Presse*, systematically excluded any mention of Zionism during Herzl's lifetime, even though the leader of the movement wrote a regular literary column for that

BEN HALPERN, *professor of Jewish history at Brandeis, is the author of, most recently,* Jews and Blacks: The Classic American Minorities.

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journal. Other periodicals, not owned and edited by Jewish liberals and unconcerned about damage to the Jewish image, gave considerable publicity to Herzl and his organization—in lampoons and cartoons. Zionism was, indeed, newsworthy and deserved comment; it was an outstanding political joke.

But Zionism turned out to be no joke. It was not stifled at birth but survived, flashing ominously on the horizon from time to time, and always, obscurely and persistently, growing. It repeatedly compelled general attention, but at such odd intervals and in such extraordinary circumstances that hardly anyone whose word counted with the enlightened public had an adequate background for comment. There was, moreover, a special reluctance to deal with a subject where the debate seemed to many liberals to be a family quarrel between anti-Semites and Jewish chauvinists; and this feeling still persists among some contemporary cultural leaders who remain doggedly silent on the whole issue in spite of its significance in our own time.

Although tendentious elements like these contributed to the general neglect of Zionism, one must nevertheless recognize that, objectively speaking, the Jewish nationalist movement was a minor movement among a small people. If physical scale serves as the measure, Zionism deserves even less notice than it received. There were certainly dramatic global-scale scenes in which modern Jews, including Zionists, played their part, yet these events, no matter what most interpreters might say, were far from being the decisive factors in the creation of Israel. The Zionist triumph was built up by the arduous, petty labors of small men, far removed from center stage in the history of our times.

Israel did not arise because Weizmann, as some disgruntled Britons used to complain, conned Lloyd George into overpaying him for his scientific contribution to the British war effort in World War I. Nor was Hitler's maniacal Jew-hatred the sufficient cause of the Jewish state. Not Herzl's flair, nor Weizmann's skill, nor Ben-Gurion's daring, nor Begin's harassment, but the labors of men like Arthur Ruppin and his associates built a structure so solid that it had to be recognized as a Jewish state when the chips were down.

If Israel compels all of us to seek to understand it, a task which some may find troublesome enough, it will prove even more trying to discover that a key to such understanding lies in the memorabilia of a modest, rather gray civil servant, technician, and administrator, a man whose major intellectual achievement was in the field of demography and statistics. Readers whose taste is formed by current literature will not be helped (unless they approach him as a study in Camp) by the fact that the hero is a paragon of passé virtues: patient, responsible, sober, incredibly systematic and diligent, humorously realistic and self-deprecating, and yet committed to goals which were not simply ambitious but lofty and humane. Any reader who does succeed in achieving empathy will

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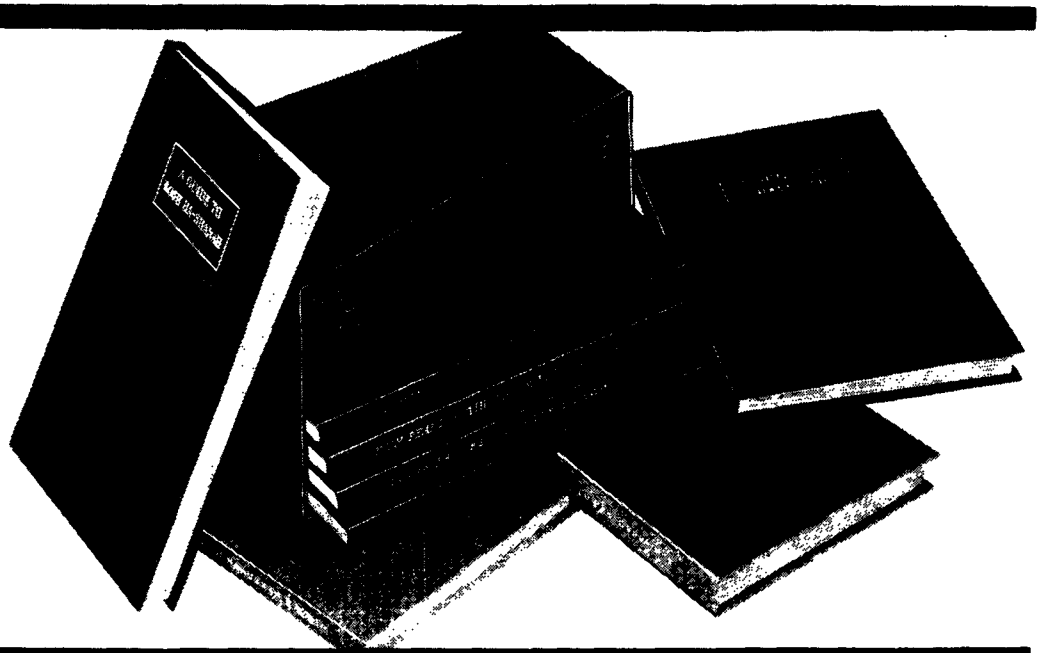

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gain more than an introduction, from an odd, oblique angle, to an understanding of Israel; he will discover a lost world of rational humanism authentically presented in its own inner light.

FOR Israelis what was most striking in the figure of Ruppin was the ability of a German Jew, a management expert, lawyer, and academic, to work with sensitive understanding alongside the slipshod, romantic, impulsive, raffish, and bohemian Russian types of the Second Aliyah. But their puzzlement reflected a misunderstanding of German Jewry that is equally prevalent in this country today. Ruppin, like a good many other German Jews, hardly fitted the usual stereotype that assumes a polar antithesis between them and Eastern European Jews, the *Ostjuden*. He was born, in 1876, in the southeastern German province of Posen, in a region with a majority population of Polish peasants. His childhood home was a small town dominated by German burghers but with a relatively dense Jewish population, large enough to produce the near-equivalent of an Eastern European *shtetl*.

Two or three generations removed from their Warsaw origins, his family had been local notables in a traditional style. His parents inherited wealth and status, but both were rapidly dissipated by Ruppin's bankrupt father. From the age of six, Ruppin, together with the rest of the family, lived a hand-to-mouth existence of near-pauperism and near-vagrancy not far removed from the style of the impoverished Polish ghettos which he studied professionally in 1903. At fifteen he left school in order to help support his family; and he succeeded so well that after eight years he was able to leave them in comfortable circumstances, with enough to spare for his own support for three years at Berlin and Halle universities.

The Horatio Alger aspect of Ruppin's life matched the typical experiences of Russian-Jewish immigrants of his time, in Germany no less than in London or New York. He, like many a Russian émigré, matriculated for entrance to the university by passing his exams as a self-taught "external student"; and like many a youth in the immigrant ghettos, he assumed the role of father to a large family of siblings, while his own hapless and dependent father was still alive. Like them he had to find models to identify with other than his own father; and in the circumstances of a young provincial Jew at the turn of the century, both his mother's staunch traditionalism and the radical Jewishness of some German Orthodox and Russian nationalist Jewish students were highly available models.

RUPPIN'S early schooling came at a time when youthful rebellion among Jewish students expressed itself in limited but quite distinct opposition to the Establishment liberalism of their parents. The sixteen-year-old Ruppin was echoing a common view among his peers when, in 1892, he proposed a separate Jewish athletic organization, to the dismay of his liberal rabbi; and his exercises in fencing were typical in a generation which considered it an obligation of honor, both as Germans and Jews, for Jews to defend themselves openly and directly against anti-Semites instead of pretending that this, like all other political matters, should be handled by liberals, not Jews.

The friends he made, who formed his identity, were men he admired for the clarity and firmness of their character as well as their broad culture. Among Jews he mentions most prominently young comrades of Orthodox parentage, although he himself shared the religious laxity of his father and remained essentially agnostic. His most admired models as a young man were Christian friends. One of them, Gustav Wyneken, was a minister's son who later became famous as a progressive educator, the author of "youth-culture" theories adopted by the German *Wandervogel* and, following them, by radical Zionist youth groups in Central Europe. In the late 1890's, when Ruppin was close to such youths, Wyneken like the others was still a student, highly moralistic and puritanical in his personal life,

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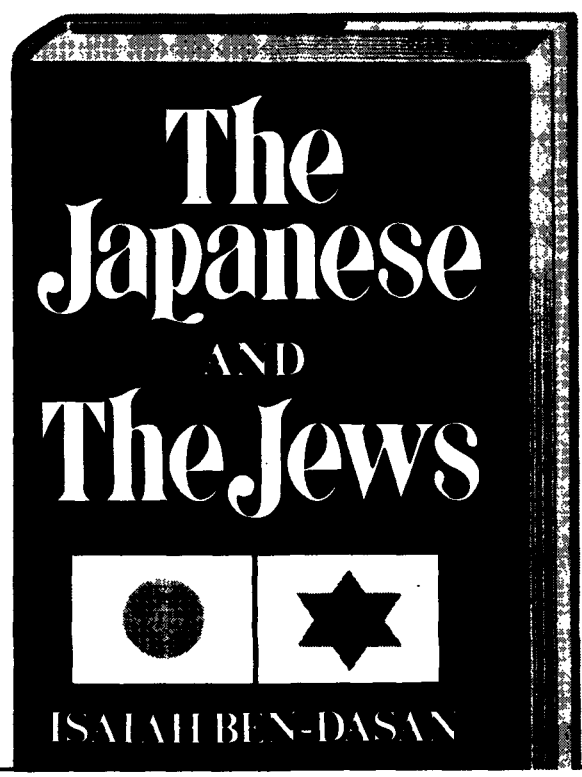

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given to mystical moods and idealistic Hegelian philosophizing, and a devout Protestant.

Apart from strength of character, what attracted Ruppin to such pious types—and them to him—was a certain highflown idealism common to both sides. For all his sober, unquestioning acceptance of his father's lapsed responsibilities, the teenage Ruppin was determined to build himself an ampler, freer life than that of a conventional bourgeois business executive. He intended, like many a romantic youth, to be eminent, and to serve the general good; but he harnessed these fantasies to an enormous capacity to act. He programmed himself with an iron will for larger, more creative tasks, whatever they might turn out to be. Friends like Wyneken cast him in the role of liberator of the Jewish nation or as a socialist leader.

RUPPIN found his true vocation in 1904 through the Berlin group of young Zionists—Berthold Feiwel, Davis Trietsch, Martin Buber—who had united in opposition to Herzl. His own Zionism did not come out of a radical conversion, nor did he join them as an unquestioning enthusiast or without long and careful study and many reservations. But the decisive commitment to make his personal life in Zion, taken after a study trip commissioned by the Zionist Executive in 1907, was unreserved and complete. He found there at once the scene in which he could be free and creative, in his own sober, responsible, realistic yet flexibly experimental style.

Among the features of Ruppin's career which have drawn the attention of readers, and form the main subject of Moshe Dayan's "Afterword," were his constant concern with, and changing views about, the proper Zionist policy toward the Arabs. It is a cliché which owes much to self-critical Zionists themselves (including Ruppin, in this book), that the Zionists naively, if not deliberately, overlooked the very existence of Arabs in Palestine. This supposition, considerably exaggerated in its application to *any* period of Zionist history, is clearly mistaken when it comes to the period after the Zionist Organization undertook seriously a program of practical colonization in Palestine. This development, coming at a time when the Young Turk revolution of 1908 had catalyzed the latent nationalism of the Arabs, forced anyone committed to practical Zionism as a serious strategy to recognize the real dimensions and critical implications of Arab hostility.

WHAT is true about the policy of Zionists toward the Arabs, and most notably about Ruppin himself, is that it always sought to avoid the hard conclusions that had to follow from what was known. Ruppin says, in a letter to Hans Kohn dated May 30, 1928:

> In founding the Brit Shalom [a society devoted to the fostering of amicable Jewish-Arab relations], I was guided by the consideration that there is no parallel in history to the aim of Zionism—to settle the Jews peaceably in a country which is already inhabited. Such an entry by one nation into the country of another is known in history only by means of conquest; so far, no nation has ever been willing to tolerate another nation settling beside it and claiming complete equality and rational autonomy. . . . The Brit Shalom was to become the forum to consider and discuss the problem.

But the Brit Shalom wanted to do more than consider and discuss; it wanted to move on to action. At this point Ruppin's realism compelled him to recognize the unreality of assuming that the Arabs might do what no other nation had yet done.

The task of settling the Jews in Palestine and doing so peaceably remained an unresolved paradox. But it was precisely this paradox to which Zionist policy, long best represented by the humane and (as he notes himself) basically apolitical figure of Ruppin, remained for crucial decades essentially committed. What the Jews built peaceably had in the end to be defended in continual, escalating war. But if they had not built it peaceably it would never have been built; and only because it was built in this way was it in the end physically, not to mention ethically, defensible.

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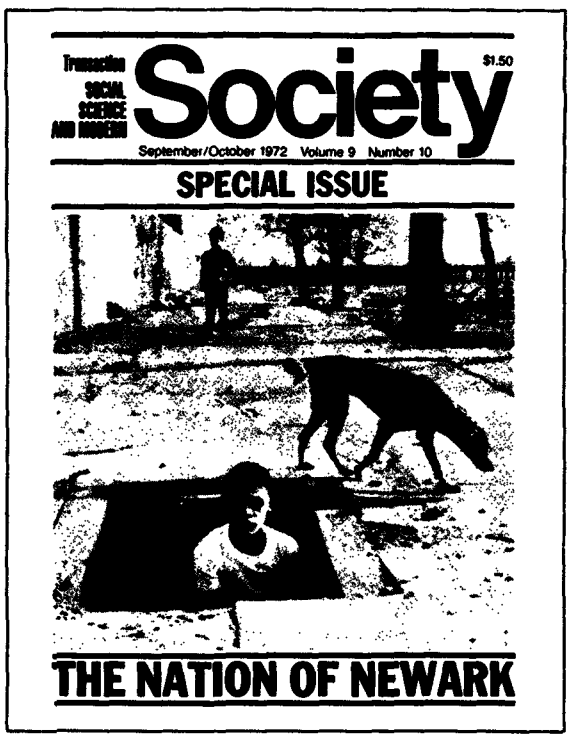

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Writing about the Past

THE HISTORY PRIMER. By J. H. HEXTER. *Basic Books. 297 pp. $10.00.*

DOING HISTORY. By J. H. HEXTER. *Indiana University Press. 182 pp. $6.95.*

Reviewed by
DAVID HERBERT DONALD

FOR nearly a generation professional historians in the United States have been experiencing a crisis of confidence. They have lost the general reading public to the amateurs, writers who usually have had no graduate training in history and who hold no university appointments. Books by Bruce Catton and Barbara Tuchman, William Manchester and Walter Lord, are selected by the big book clubs, receive lead reviews in popular periodicals, and win prizes. Professional historians have also lost status within the university community. Since the first Russian Sputnik the cushiest professorships, the fattest government grants, the largest summer-salary supplements have gone to natural and social scientists. Treated as second-class academic citizens, historians have increasingly come to question the value of their own discipline, and many have sought to find in science a model that would provide intellectual rigor and respectability to the historical enterprise.

In the last year or so, however, there have been indications that this impetus toward scientific history is about spent. In a major address before the American Historical Association in December 1970 Oscar Handlin gave a bleak appraisal of what the historical profession has accomplished during the last thirty years or so and showed that improved scientific and quantitative techniques have not produced corresponding improvements in historical insight. Shortly afterward John Higham, in *Writing American History*, warned that the training of young historians in social-science methods is beginning to lead to a neglect of their "artistic and moral sensibilities." More recently, in a devastating essay in the February 1972 issue of the *American Historical Review*, Jacques Barzun demonstrated how little in the way of enlightenment historians have gained from psychoanalysis. In short, there is a small but significant movement under way toward a historians' declaration of independence.

If the Thomas Jefferson of the historical profession has yet to emerge, the independence movement now has its Thomas Paine in J. H. Hexter, professor of history at Yale University and a leading expert on the Tudor-Stuart period. Adopting as his motto "Common Sense, Common Language, and Credibility," Hexter has written two books that, taken together, form the most learned, persuasive, and witty defense of the historical profession ever made by an American. The larger, more formal work is *The History Primer*, whose contents belie its name; this is anything but an introduction and, as Hexter concedes, might properly be called *(Some) First Principles of Historical Discourse*. More accessible is a collection of Hexter's essays published under the title *Doing History*.

Hexter is an unabashed advocate of the professional historian. He has little use for amateurs and announces flatly, "Nearly all the competent history writing done nowadays is done by professional historians, people who are trained in and live by the regular practice of history as lawyers live by the practice of law, physicians by the practice of medicine." But professional historians, he feels, are not doing their best work because they too often fail to use their good common sense and are tempted to adopt heretical doctrines. One of these is the notion that there is something wrong in the publish-or-perish rule. It is, Hexter argues, "pure poppycock" to believe that there are somewhere mute inglorious Miltons, too dedicated to their students and their teaching to do historical research and writing. By and large the best historians have the best jobs in the best universities, and "the price a particular

DAVID HERBERT DONALD *is director of the Institute of Southern History at Johns Hopkins.*

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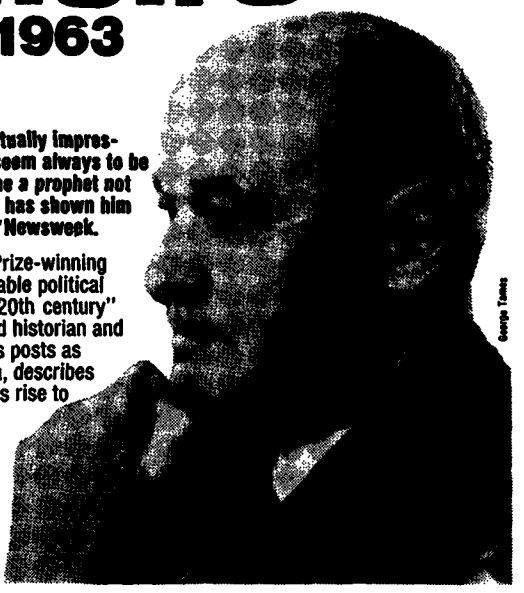
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historian fetches in the current job market" is an accurate index of his competence. Even more dangerous is the heresy that history ought to be saved by adopting the methodology or rhetoric of some other discipline—usually one of the natural or social sciences. Vigorously Hexter warns his colleagues to stay clear of "some leaders of fashion in history" who "have a rather special gift for leaping aboard intellectually sinking ships and drawing their innocent followers along with them."

One already foundering ship that Hexter takes delight in scuttling is the proposal to make historical inquiry follow the logic of science. Brilliantly he demonstrates that there is "an irreducible divergence" between history and science. Philosophers like Carl Hempel and Morton White who fail to recognize this fundamental difference have little understanding or appreciation of what historians do. Consequently they come up "with prescriptions that no historian could actually follow." Presented with their attempts to explain historical problems through scientific models, Hexter "takes a look at what is offered, sniffs contemptuously, refuses the offer, and then sinks his fangs in the hands of the offerer."

He is a little more charitable toward those who want historians to use social-science techniques in their work, though he thinks most talk about these matters consists of "pompous programmatics, inflated verbiage, big empty promises, and high-sounding claptrap." Still he is willing to concede that historians can usefully employ a "small bag of tricks" learned from a social scientist—preferably in some painless way, as during lunch with a talkative colleague. He has no great hope, however, that computer techniques, psychoanalytical training, or any other kind of formal instruction in the methods of another discipline will much improve the quality of history. "A historian who cuts his historical suit to fit the cloth of any other social science," he warns, "will find himself more skimpily clad in a garment less likely to protect him from the chill of ignorance and vacuity."

HEXTER himself is a tailor who knows how to make a cloak of the richest and fullest historical brocade. While a large portion of both his books—perhaps too large a share—is devoted to defending the autonomy of history, he is equally concerned with showing how a good historian goes about his task and how excellent history is written. The most original part of his discussion is his analysis of the rhetoric of history. By rhetoric he means not just style, "ordinarily deemed icing on the cake of history," but something more basic —something "mixed right into the batter." The language a historian uses and the rhetorical strategies he employs affect "not merely the outward appearance of history, its delight and seemliness, but its inward character, its essential func-

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tion—its capacity to convey knowledge, understanding, and truth about the past as it actually was." Hexter is at his best in showing how such seemingly small decisions as which data should be relegated to a footnote, which portions of a document should be quoted, which names should be included in a list, are of enormous importance in giving the reader "historical understanding beyond explanation," in affording one man "knowledge of what it is like to be another."

So powerfully persuasive are Hexter's arguments that one could wish that he had in these two books followed his own injunctions rather more closely. Both are too long, too rambling, too repetitious. Hexter's humor is donnish, and he tries too hard to be cute with chapter titles like "The Cases of the Muddy Pants, the Dead Mr. Sweet, and the Convergence of Particles." Too much of both these books is negative in tone, and Hexter seems more interested in scoring points against philosophers and social scientists than in seriously considering what there is to be learned from their works.

Even so, *The History Primer* and *Doing History* raise thinking about the nature of the historical enterprise to a new level of intelligence and sophistication. Laymen may not find them easy reading, but this is the place to learn what history really is all about. Every graduate student ought to be required to read these books as an introduction to his chosen discipline. The professional historian can gain from them not merely a renewed sense of pride in his craft but a new faith in the value of his work. If the study of history can give to Everyman "the knowledge of what it was like to have been a *particular* person or a member of a *particular* group in the past," it is not unreasonable to hope, with Hexter, that "it might equip him who is all of us, a little better for meeting the complexities and perplexities of living from day to day; it might make us a little less childish, a little more mature; a little less provincial and naive, a little more ecumenical; a little less mean, a little more generous."

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Jewish Identity

A BIAS OF REFLECTIONS. By NATHAN PERLMUTTER. *Arlington House. 181 pp. $6.95.*

Reviewed by ANDREW M. GREELEY

SUBTITLED "The Confessions of an Incipient Old Jew," *A Bias of Reflections* is a gentle, sensitive, and profoundly sad volume. Like many Jews of his generation, Perlmutter laments the passing of the things that were critically important to his own Jewish identity. The old neighborhood in Williamsburgh is gone. The memory of the Holocaust seems to be fading. Many younger Jews are turning against Israel. The vigorous secular Jewish commitment of organizations like the American Jewish Committee seems much less confident than it once was. The sons and daughters of his generation (including his own child) seem prone to marry Gentiles. Maybe it's the end of the line for a distinctive Jewish identity. Maybe being a Jew won't mean anything at all to a future generation of American Jews.

Perlmutter agonizes over these issues, not so much by explicitly raising them, as by reflecting on a series of vignettes from his own experience. For a Gentile, *A Bias of Reflections* makes fascinating and haunting reading; for an Irishman it is also disturbing reading, for it turns out that among the many other things that the Irish and the Jews share is a common propensity to think that one's own generation is doomed to preside over the tragic end of the tradition. For a millennium or more, the Irish have been staring into the mists over the peat bogs and bewailing the vanishing of the Irish race. Strange that Jews should do it, too.

How does one on the outside say to Nathan Perlmutter and other Jews of his generation that they should stop worrying? From the secure perspective of my Irish position, I can assure him that America without the strongly self-conscious Jewish community is inconceivable. I can argue vigorously that Williamsburgh, the Holocaust, and Israel are by no means the only possible components of a strong Jewish sense of identity. I can insist that my data show that among young Jews who still define themselves as Jews the intermarriage rate is very low. I can insist that a people which has persisted for so long is not likely to vanish under the impact of American suburban culture.

Mr. Perlmutter will listen courteously, nod his head sympathetically, but still not really believe me. No more than his Irish Catholic counterpart, Daniel P. Moynihan, is prepared in the depth of his morose Celtic soul to believe that the passing of Camelot was anything less than the twilight of the American Irish. The truth of the matter is that both Celts like Mr. Moynihan and Semites like Mr. Perlmutter enjoy twilight immensely. "Ah, 'tis the end of everything. Those were great days in the past. Too bad it's all over, too bad we're the last of our kind!" Thus have Celts, and apparently Semites, spoken among themselves since the memory of man runneth not to the contrary.

I do not mean at all to make fun of Mr. Perlmutter's sadness, for I feel the same sadness myself. It comes from growing old (even incipiently), from realizing that one's own past is definitely past, and from discovering that every generation must make its own mistakes. But thus far in the history of the human race, and indeed in the history of the Jews, twilight has inevitably been followed by dawn. One can make out of such a phenomenon whatever religious symbol one wishes, and Mr. Perlmutter wants rather little to do with religious symbolism, but I think that's a shame and not merely because I have certain professional interests in religion.

For unless I miss my guess, the religious agnosticism with which Perlmutter and his generation were able to live rather comfortably is waning and religion will again become an important component of the New Jewish Religious Identity (a new identity which, incidentally, will be no more widespread than the New Politics are—not *very* widespread, in other words). While I'm not suggesting that the sons and daughters of Westchester County and Skokie, Illinois are going to become extremely Orthodox after the fashion of their great-grandparents—though I've seen more *yarmulkes* around the University of Chicago this year than in all the other years put together—if the present Catholic experience is any indication at all, I wouldn't be very surprised if many young Jews in the years ahead put much greater emphasis on the joyous and mystical components of the Jewish tradition than have their recent predecessors. In fact, given the very strong mystical strains that are appearing in American society, I don't see how it is possible to avoid a revival of Jewish mysticism.

Mr. Perlmutter may be no more at home with Jewish mystics than I am with Catholic Pentecostals. But Jews they will be and I suspect that for all the joy that I think will be part of their mysticism they, too, when they reach their middle forties, will begin to lament the fact that with their generation the end of everything has finally come. But, like their predecessors, they will know deep down in their hearts that it really isn't so.

ANDREW M. GREELEY *is director of the Center for the Study of American Pluralism at the University of Chicago and the author of* That Most Distressful Nation: The Taming of the American Irish.

The Grand Tour

CITIES OF LIGHT AND SONS OF THE MORNING. By MARTIN GREEN. *Little, Brown. 465 pp. $15.00.*

Reviewed by JOHN P. SISK

MARTIN GREEN'S long and very original book begins with the disarming announcement that it was written "to make me stop feeling so badly about myself-and-the-world." It can be described as a Grand Tour, the aim of which is to explain how a person of

JOHN P. SISK, *whose article "On Intoxication" appeared in our February number, is professor of English at Gonzaga University in Spokane.*

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The Student Academic Freedom Forum presents:

How Much of Yesterday's Heresy Is Today's Science?

IMMANUEL VELIKOVSKY *Reconsidered*

Special Issue • Pensée Magazine • Stephen L. Talbott, Editor • First Printing: 35,000

During the 1950's Dr. Immanuel Velikovsky published his bestsellers, *Worlds in Collision* and *Earth in Upheaval*, in which he argued that the earth suffered a series of cosmic catastrophes during historical times. These upheavals, he claimed, sculpted our planet's face and changed the course of history, bringing an end to Egypt's Middle Kingdom, destroying civilizations around the world, and figuring in the Israelite Exodus. (This last receives detailed treatment in *Ages in Chaos.*) Initially castigated for his views by scientists, Velikovsky has now been vindicated by numerous space-age discoveries. This special issue of *Pensee* surveys the evidence.

The Scientific Mafia — *David Stove, senior lecturer, department of philosophy, University of Sydney, Australia*

How Stable is the Solar System? — *Dr. C. J. Ransom, plasma physicist, General Dynamics*

A Record of Success —*Thomas Ferte, department of humanities, Oregon College of Education*
37 documented confirmations of Velikovsky's scientific claims, most of which were considered unlikely or impossible when he first voiced them. For example, regarding the moon, Velikovsky deduced (before the Apollo landings) that (1) the lunar "rocks and lavas could conceivably be rich in remanent magnetism resulting from strong currents when in the embrace of exogenous magnetic fields"; (2) "Since the moon was heated and its surface became molten only a few thousand years ago, the temperature gradient under the surface crust will show, to some depth, a mounting curve"; and (3) "excessively strong radioactivity will be detected in localized areas" on the moon.

Lunar Rocks and Velikovsky's Claims — *Dr. Derek York, associate professor, geophysics division, University of Toronto*

When Was the Lunar Surface Last Molten? — *Immanuel Velikovsky*

Magnetic Remanence of Lunar Rocks/A Candid Look at Scientific Misbehavior — *Robert Treash, San Diego Evening College*
"One or more Apollo missions could have been spared were Velikovsky's books and memoranda considered."

On Decoding Hawkins' Stonehenge Decoded — *Immanuel Velikvosky*
A full-length analysis of Stonehenge and its meaning in the light of cosmic catastrophes during man's history.

The Censorship of Velikovsky's Interdisciplinary Synthesis — *Dr. Lynn Rose, professor, department of philosophy, State University of New York (Buffalo)*

The Center Holds — *Dr. William Mullen, departments of classics and comparative literature, and division of interdisciplinary and general studies, University of California (Berkeley)*

Shapley, Velikovsky and the Scientific Spirit — *Dr. Horace Kallen, co-founder and former dean of the graduate faculty, and research professor in social philosophy, New School for Social Research*
Einstein's reaction to the suppressive efforts against Velikovsky is revealed in a letter 30 days before his death.

Velikovsky at Harvard — *Stephen Talbott, editor, Pensee magazine*
The dramatic story of Velikovsky's lecture and seminar last February 17-18 to an enthusiastic crowd at Harvard.

Is Venus' Heat Decreasing? — *Immanuel Velikovsky*

Akhnaten, Aten and Venus Reconsidered — *Lewis Greenberg, assistant professor, department of art, Franklin and Marshall College*

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Erasmian temperament has come to believe that the only possible position in an age of revolution is a radical one. The book is launched from and returns to an autobiographical base: Mr. Green is a liberal English Catholic educated at Cambridge, the Sorbonne, and the University of Michigan; since 1957 he has taught English in America (Wellesley and Tufts); he has written four other books that are in various ways preparatory to this one; at the end he discovers why he can't go home again. However, *Cities of Light and Sons of the Morning* is personal in the manner of George P. Elliott's non-fiction rather than Norman Mailer's: Erasmians have a natural modesty that inclines them to keep themselves subordinated to the reality they are trying to understand.

Mr. Green's Grand Tour is in effect an argument that depends on six key terms: the three temperaments, Faustian, Erasmian, and Calvinist; the three positions, conservative, liberal, and radical. Each of the temperaments derives from a characteristic psychic bargain or compact in which one set of possibilities for personal development is exchanged for another in an act of transference that "arouses and energizes the whole psyche." In the Faustian, or diabolic, bargain "a man of imagination sells his soul (his sense of decency, normality, morality) in exchange for giant powers, swollen organs, of personality and of intuitive knowledge." In the Erasmian bargain appetitive and instinctive energy are exchanged for intellectual and moral civilizedness. In the Calvinist bargain dedicated members of an ideological elite (the saints) "exchange their individual freedom for a group identity that will enable them to save the people." In this scheme Mailer, Leslie Fiedler, Blake, Tolstoy, the later Goethe, and the later Rousseau are Faustians; Orwell, Emerson, William Godwin, Diderot, and Thomas Mann are Erasmians; Castro, Marx, Thomas Paine, Cromwell, and Che Guevara are Calvinists.

The three positions correspond only roughly to the temperaments: Faustians may be conservative (Goethe of the Weimar period) or radical (Mailer, except when inspired by the disciplined self-subordination of astronauts or menaced by the radicalism of Women's Lib); Calvinists may be radical when out of power (Marx) or conservative when in (Castro); Erasmians incline to be liberal but have a tendency to become conservative when pressed too hard by Calvinists (T. S. Eliot) or radical when overstimulated by Faustians (Noam Chomsky). Within limits men have the power to choose or to modify both temperament and position; if they did not this book would have no point. Green's world is not a Skinner box.

Such is the intellectual machinery with which we embark on the Grand Tour, hoping that a study of men and cities in periods of revolution will throw light on our own dilemmas. The major ports of call are Mailer's New York, an Alexandrian type of city, full of madness and magic, reminiscent of Elizabethan London and Imperial Rome; Blake's revolutionary London of the 1790's, where the tradition of Puritan-Dissent brings together Faustian, Erasmian, and Calvinist strains; Goethe's conservative Weimar, post-*Sturm und Drang*, committed to civility and culture, well aware of the dangers of radicalism and excess; Francis Jeffrey's golden-age Edinburgh, producer of the Waverly novels, the *Encyclopaedia Britannica*, the *Edinburgh Review*, and *The Quarterly*. More briefly visited are Hartford, Boston, Philadelphia, and New York during the period 1780-1820, Calvin's Geneva, Hermes Trismegistus's Alexandria, Castro's Cuba, slave-trade Liverpool, and finally the author's home village, Weston Lullingfield in Shropshire.

I can only admire Mr. Green's skill as Tour conductor as he sets these men and places beside one another and uses his intellectual machinery to compare and contrast them. All sorts of clarifying connections are made: the phallic narcissism of Byron and Mailer; the Maileresque strain in Sir Walter Raleigh; the Calvinist kinship of Thomas Paine, Che Guevara, and New Left Catholics; the prefigura-

the existential experience

RALPH HARPER

Sculpture by Reg Butler.
Coll. Mrs. Alan Wurtzburger.
Photo Peter Winants

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tion of the best American liberal-arts colleges in Goethe's Weimar; the Faustian anarchism of Blake and Norman O. Brown; the philosophical anarchism of William Godwin and Noam Chomsky; the gnostic Faustianism of Marsilio Ficino, William Yeats, Northrop Frye, and Robert Graves; the continuity among medieval, renaissance, and modern sexual revolutionaries. Mr. Green is careful not to claim too much for any of these connections. "History and its analogies provide no solutions," he observes, "but they can clarify one's feelings."

A BOOK of this sort is a high-risk enterprise, involving as it does the cultural and political placement of so many controversial figures. For instance, the treatment of Mailer (as a fix-point not even Goethe is more important to the book) is likely to be the make-or-break factor for many readers. I suspect too that Mr. Green will be faulted for a tendency to explore points of interest along his itinerary at inordinate length simply because they are engrossing to him—as are, say, the medieval and Reformation heretical revolutionaries in Chapter 7. Similarly, Chapter 8 devotes nearly fifty pages to the Faustian traffic in the occult (hermeticism, gnosticism, Neo-Platonism, alchemy, Freemasonry, etc.), beginning with 2nd-century Alexandria and working through to Symbolist poetry, myth-criticism, and psychoanalysis (Freud and Jung are magi as well as conservative Faustians). The chapter has something of the effect of a fascinating side-excursion. No doubt it could have been drastically cut, or even omitted, but I'm glad it was allowed to stand. This is the realm of "rosewater" (i.e., non-sulphurous) Faustianism, and as Mr. Green says, it is nice to visit, even if one wouldn't want to live there. Besides, the chapter helps me to see how straight the line is that runs from Giordano Bruno to Mailer's *Of a Fire on the Moon* and *The Prisoner of Sex*, books that came along too late for Mr. Green to consider.

Part II, a sixty-page conclusion, presents a problem of a different kind. In the main this is the author's reconsideration of an essay he had previously written about his home village, Weston. The reconsideration is made necessary by his subsequent experience of Castro's Cuba and his discovery that Weston, which had always been to him a place of innocence and privacy, is actually involved by way of Liverpool with the slave trade. So his attempt to place Weston in history ends with the discovery that for it, and for him, history is slavery. This section is not only powerful in itself but is necessary as a dramatic justification for the final formula: an Erasmian temperament but a radical position. But coming after the variety and imaginative reach of the Tour, the conclusion has a diminishing and even chilling effect, as if one were returning from a weekend at Weimar with Goethe and Schiller to Geneva and a cold Sunday-night supper with Calvin.

The trouble is that too much of the book resists the reduction of history to slavery, whether in the Caribbean or anywhere else on the globe; too much of it is calculated to make the reader wary of the fierce (if often unifying and therefore comforting) reductions to which Calvinists and radicals are inclined. Mr. Green writes so well and with such zest that he really undercuts his own formula. Indeed, he admits that with that formula he is still trying to have things both ways—an inevitable consequence of his realization that "if you subdue the life of the mind to the discipline of reality as political radicalism knows it you will be left with only a fragment of what we know as knowledge, as imagination, as mind." His position seems to be that the Erasmian liberal who lacks the capability to see Faustian and Calvinist in their historical context, and with discriminating sympathy, is an impoverished person—but that if he has this capability he is probably right now a very troubled person. His book is therefore a mirror for those of us whose fate it is to be Erasmian liberals in a time when Faustian and Calvinist radicals are almost equally insistent, and whose fear it is that the cultural cost of the salvations they offer will be too high.

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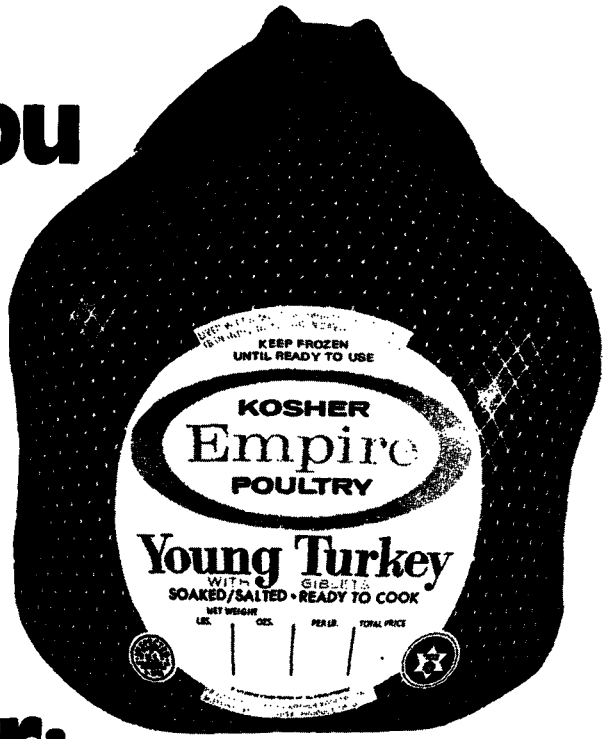

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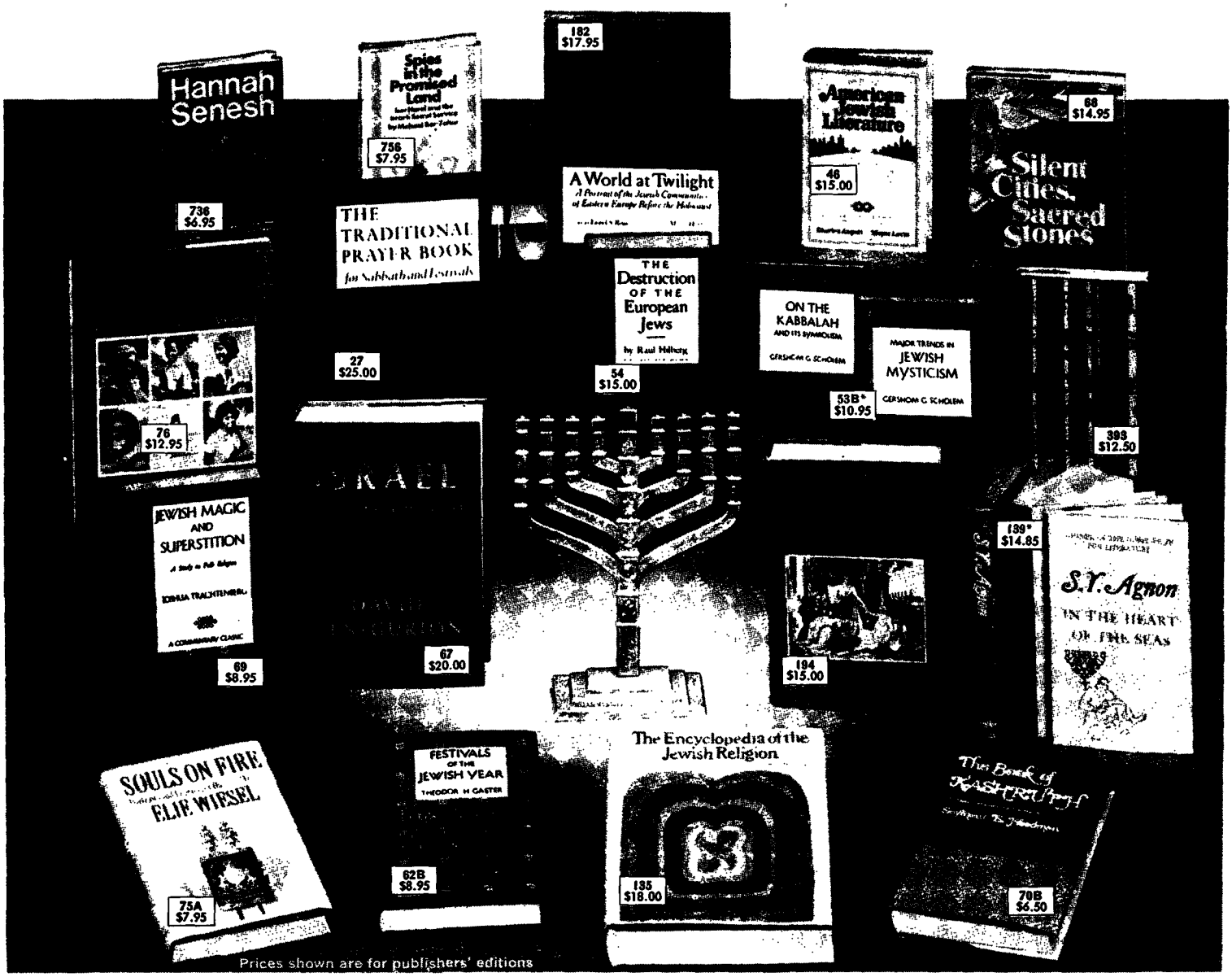

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